

ATIPPAReview

From: Bob Kelland [REDACTED]
Sent: Thursday, October 8, 2026 10:49 AM
To: ATIPPAReview
Subject: RE: Written submission, version 3: sections 14, 21 and 23 of ATIPPA, 2015 (replaces all earlier versions)
Attachments: Service of documents_ Supreme Court files 202601G5562, 202601G5682 and 202601G5529 (Kelland, s.52 ATIPPA appeals).pdf
Categories: Submission

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ms. Power,

Version 3 of September 20 is my final written submission. Nothing in it needs correcting. Please treat this email as an addition to the annex at the back of it, covering what has happened on the same files since September 20. The recommendations in Parts 1 to 3 do not change. If anything, the last three weeks make the case for them.

On the disregard appeals under section 52. The Supreme Court has assigned my three appeals to a judge and will call all three together in chambers on November 9, 2026. Each appeals a decision by the head of a department to disregard access requests about the 2025 Conception Bay North wildfires, each approved in advance by the Commissioner. Today I served the two respondent ministers, the Minister Responsible for Access to Information and Protection of Privacy, and the Commissioner. A copy of today's service email is attached. The court files are 202601G5562 and 202601G5682 (Forestry, Agriculture and Lands) and 202601G5529 (Municipal and Community Affairs). The applications and affidavits are public court records and I can send them if they would help the Committee.

On section 23 extensions. On September 15 the department applied for a third extension on one file, after I had opposed it in writing to the Commissioner, and the Commissioner approved it. On September 25 the Commissioner approved another extension on a second file, again after my written opposition. Neither approval came with reasons. Section 55 says an extension decision cannot be appealed, so an applicant who objects has nowhere to take it.

On what the extensions produced. On October 7 the department sent its final response on the first of those files, 80 business days after it received the request. The response is that there are no records. Six of the eight items are answered by pointing to records already released under an earlier request, one item is answered by pointing to a request still open, and one item has no records. Two extensions, each approved by the Commissioner as needed to process the request, produced a letter saying there was nothing to process.

On the Commissioner's complaint queue. On September 24 the Commissioner's office placed a seventeenth of my complaints in abeyance under section 44(7). The same day I wrote to the

Commissioner asking three things in writing by October 2: how many complaints are in the queue, where mine sit in it, and when the five active investigations will report. I have had no reply. Section 46 gives the Commissioner 65 business days to report on a complaint unless the court extends it; the first of the five active files reaches that mark this week.

On a note from the Town of Small Point. On September 24 the Town refused one item of a request under what it called section 29(h). Section 29(1) has no paragraph (h). Section 29(2)(h) is the paragraph that says a feasibility or technical study, including a cost estimate, cannot be withheld. The Town cited the paragraph that forbids its own refusal. That is what section 21 approvals and unreviewed severing look like at the municipal level, and it is the reason the recommendations in Part 3 apply to all public bodies and not only to departments.

My notice of intention to present stands, with a virtual slot preferred.

Bob Kelland

Attached: Service email of October 8, 2026 (PDF)



Bob Kelland [REDACTED]

Service of documents: Supreme Court files 202601G5562, 202601G5682 and 202601G5529 (Kelland, s.52 ATIPPA appeals)

1 message

Bob Kelland [REDACTED]

Thu, Oct 8, 2026 at 10:27 AM

Reply-To: [REDACTED]

To: falminister@gov.nl.ca, mca-minister@gov.nl.ca, JPSMinister@gov.nl.ca, Commissioner@oipc.nl.ca

Cc: atippoffice@gov.nl.ca, justice@gov.nl.ca

To the Minister of Forestry, Agriculture and Lands, the Minister of Municipal and Community Affairs, the Minister of Justice and Public Safety and Minister Responsible for Access to Information and Protection of Privacy, and the Information and Privacy Commissioner,

I am the self-represented applicant in three appeals under section 52 of the Access to Information and Protection of Privacy Act, 2015, before the Supreme Court of Newfoundland and Labrador, General Division:

202601G5562, Kelland v. The Minister of Forestry, Agriculture and Lands (access request FAL-107-2026)

202601G5682, Kelland v. The Minister of Forestry, Agriculture and Lands (access requests FAL-110-2026, FAL-111-2026 and FAL-112-2026)

202601G5529, Kelland v. The Minister of Municipal and Community Affairs (access request MCA-077-2026)

The Court has assigned the three files to a judge. All three will be called together before a judge in chambers on Monday, November 9, 2026 at 9:30 a.m.

I am serving the attached documents on each of you as follows. The Minister of Forestry, Agriculture and Lands is the head of the public body and the respondent in 202601G5562 and 202601G5682, under section 56(1) of the Act. The Minister of Municipal and Community Affairs is the head of the public body and the respondent in 202601G5529. The Honourable Helen Conway Ottenheimer is served in her capacity as Minister Responsible for Access to Information and Protection of Privacy, being the minister responsible for the Act under section 56(2), and in her capacity as Minister of Justice and Public Safety on behalf of the Crown under section 11 of the Proceedings Against the Crown Act. The Information and Privacy Commissioner is served under section 56(2) of the Act.

Attached:

1. Notice to the Respondent(s) issued by the Registry for all three files
2. 202601G5562: Originating Application (Inter Partes) and Affidavit of Robert Kelland with exhibits, as filed
3. 202601G5682: Originating Application (Inter Partes) and Affidavit of Robert Kelland with exhibits, as filed
4. 202601G5529: Originating Application (Inter Partes) and Affidavit of Robert Kelland with exhibits, as filed

I am serving these by email. Please reply to this email to confirm you have received the documents and accept service by email as of today's date. If I do not have that confirmation from each of you by Friday, October 16, 2026, I will arrange personal service in St. John's.

Robert Kelland (self-represented)

[REDACTED]

4 attachments



1-Notice-to-Respondent_all-three-files.pdf

33K



2-202601G5562_Kelland-v-Minister-FAL_FAL-107-2026.pdf

2279K



3-202601G5682_Kelland-v-Minister-FAL_FAL-110-111-112-2026.pdf

2466K



4-202601G5529_Kelland-v-Minister-MCA_MCA-077-2026.pdf

3911K

Submission to the ATIPPA Statutory Review Committee 2025

Sections 14, 21 and 23 of the *Access to Information and Protection of Privacy Act, 2015* in operation, and the remedy the Act provides

Robert Kelland

Version 3, September 2026. Facts are stated as at 20 September 2026.

This version replaces all earlier versions.

About this document

This is my complete submission. It replaces the consolidated submission of 1 September 2026 and everything I sent before it. Nothing in the earlier versions needs to be read.

It has three parts and an annex.

- **Part 1** is a summary of what I recommend and why. It is written to stand on its own.
- **Part 2** gives the reasons, provision by provision.
- **Part 3** sets out the recommendations in full. Recommendations 1 to 21 keep the numbers they had in the 1 September version. Recommendations 22 to 47 have not been before the Committee until now.
- **The Annex** is the record: which public body, which file, which date, which document.

Parts 1 to 3 contain no file numbers. Where they say “in one instance” or “one department”, a reference in square brackets, such as [B5], points to the line of the Annex that identifies the file and the document. The Annex is there so that any statement of fact in this submission can be checked. Parts 1 to 3 do not depend on it, and I have no objection if the Committee publishes them without it.

Section 117(1) directs a review of “the provisions and operation” of the Act. How a provision operates cannot be read from its text. It has to be observed, and what I have been in a position to observe is what happened to requests I made. That is the only reason my requests appear here. I am not asking the Committee to review any decision on any of them, and I do not ask it to find that any public body, or the Commissioner’s Office, acted outside the Act. Almost everything described here is permitted by the Act as it stands, and that is the difficulty. Where I say the Act is unclear, the uncertainty itself is the point.

Five of my requests are the subject of three appeals now before the Supreme Court under section 52. I refer to those appeals only as facts about the route the Act provides: that they were filed, when, and what filing them required. I make no argument here about their merits.

Several statutory dates on matters described here fall before 9 October 2026. If any of them changes a statement in this document I will send one corrected version before the deadline, complete in itself, so that the last version received is the only one to read.

I have no objection to publication. I ask that my contact details be withheld. They are in the covering email and nowhere in this document.

PART 1. SUMMARY OF RECOMMENDATIONS

Numbers in square brackets after each heading are the recommendations in Part 3.

The Act gives a public body three ways to end or defer a request without ever deciding whether the applicant is entitled to the records. It can apply to the Commissioner for approval to disregard the request under section 21. It can apply to the Commissioner to extend the time for responding under section 23. Or it can say that another public body holds the records, with or without a transfer under section 14. From the citizen's side these are three answers: not yet, not us, and too much.

The first two are decided within three business days on an application the applicant does not see. The third is decided by nobody. In none of the three is the applicant told beforehand or heard. A disregard can be challenged only in the Supreme Court. An extension cannot be challenged under the Act at all.

By my count, between 14 June and 20 September 2026, 62 requests of mine arising from the 2025 Conception Bay North wildfires were made to, or transferred to, twelve public bodies. Nineteen were disregarded in whole or in part, in ten decisions. Twelve were extended, by nineteen notices. Nine times a body disposed of a request, or part of one, on the ground that another body held the records. The Commissioner's Office told me in July that about 3 per cent of requests in the province draw an application to disregard. Its annual report for 2024-25 says 72 per cent of those applications were approved and a further 11 per cent approved in part, which is roughly two or three requests in a hundred. On my requests it is about thirty-one in a hundred. That figure does not prove any decision was wrong. But the Act gives no one the job of looking at it.

1. Notice, and time to answer [2, 3, 4, 5, 20, 31, 32]

Sections 21 and 23 require no notice to the applicant that an application has been made and allow no answer before it is decided. The Commissioner's Office has written that, because a decision is required within three business days, it is usually not practical to seek further input even from the public body that applied. Under the federal Act, and under the published procedures of the Commissioners in Saskatchewan and British Columbia, the applicant is given notice and a chance to respond.

I recommend that the public body give the applicant written notice and a copy of its application at the time it applies; that the applicant have not less than five business days to respond; that the Commissioner's decision period run from the end of that response period; that no application be approved unless the Commissioner is satisfied the applicant was served; and that an application not decided in time be treated as not approved. The section 16 clock should keep running throughout, as it does now.

2. Whether the applicant's position reaches the decision maker [1, 2, 33, 43]

An applicant who answers a request to narrow, or who offers a way to reduce the work, has no means of knowing whether that answer was put before the person deciding, because the applicant never sees the application. I recommend that the head be required to ask the applicant to narrow before applying; that the application state what was done under section 13 and attach the correspondence, including any

counter-proposal; that the Commissioner be required to have regard to it; and that the Act expressly allow an applicant to put representations before the Commissioner on an application that is pending or that the public body has said it intends to make.

3. Reasons [9, 10, 13, 34, 35]

Section 21(6)(a) requires a disregard notice to give “the reasons for the refusal”. Section 23(6)(a) requires an extension notice to give “the reason for the extension”. Neither says what counts as a reason, and neither attaches any consequence when none is given. Of the ten disregard decisions in the Annex, two notices as first issued gave no reasons at all, and the Commissioner’s Office has taken the position that a notice with no reasons does not affect the approval. Of nineteen extension notices, six gave no reason. The applicant does not receive the Commissioner’s decision or any reasons for it, and the application and the approval are withheld from the applicant under section 41(c), both by public bodies and by the Commissioner’s Office. The applicant must then decide within fifteen business days whether to go to the Supreme Court without having seen the case that was made.

I recommend that reasons be required to address the request itself and each ground relied on; that reproducing the words of the section not count as a reason; that the notice name the decision maker and give the dates of application and approval; that the Commissioner give written reasons to the applicant as well as to the head; that section 41(c) be declared not to apply, as against the applicant concerned, to an application under section 21 or 23 or the decision on it; that the appeal period in section 52(2) run only from a notice that complies with section 21(6); and that decisions be published with reasons.

4. Language applied consistently [8, 17, 36, 37, 38]

Section 21(1) is drafted around one request: the head may apply “not later than 5 business days after receiving a request” for approval to disregard “the request”. It is being applied to many at once. One notice disposed of eight separately numbered requests in a single letter on the ground of their cumulative scope. Another gave as its reasons “the number, frequency, scope, and subject matter of the requests that you have submitted to the Department” and said nothing about the request it disregarded. The Act does not say whether that is permitted, on what test, or from which request’s receipt the five business days then run. Section 23 raises the same question where several requests are extended together (recommendation 17).

The Act is also silent on proportion. Disregards of part of a request have been approved, so a lesser measure is available, but nothing requires anyone to consider one. And nothing deals with the case where an applicant is advised to divide a request and the resulting number of requests later becomes a ground for disregarding them.

I recommend that the Act say expressly whether one application may cover several requests and whether the grounds may be made out by reference to the applicant’s other requests, and if so on what stated test; that the head and the Commissioner be required to consider whether a partial disregard, an extension or staged release would answer the difficulty before a request is disregarded in whole; and that requests made on the written advice of a public body or of the Commissioner’s Office to divide a larger request not be counted against the applicant for number or frequency.

5. A remedy short of the Supreme Court [7, 20, 27, 39, 47]

The Act has its remedies upside down. The refusal of a single record can be taken to the Commissioner at no cost. A disregard, which ends the whole request, cannot: section 42(8)(a) bars the complaint, and the only route is an appeal to the Supreme Court within fifteen business days, with a filing fee, a sworn affidavit and service on the respondent and, under section 56(2), on the Commissioner and the minister responsible for the Act, against Crown counsel. Section 56(4) then bars the Commissioner, whose Office approved the disregard, from intervening as a party. Section 56(7) has the record prepared by the respondent. An extension has no remedy under the Act at all: sections 42(8)(b) and 55(a) close both doors by name.

Ten decisions meant ten appeal periods of fifteen business days, which section 52 gives no power to extend. I have filed three appeals, without a lawyer, at a cost to date of \$850. An access statute whose only remedy against a disregard is a Supreme Court application is hard to square with what section 3 says the Act is for.

I recommend that the Committee choose one of two complete models: prior approval by the Commissioner with the applicant heard and a real route of review, or a decision by the head alone with a complaint to the Commissioner afterwards, as in Ontario and Alberta. Within the present model, I recommend a right to ask the Commissioner to reconsider an approval given by delegated staff, at no cost, with the appeal period running from the reconsideration; and that for extensions the bar on appeal in section 55(a) be lifted and a complaint allowed where the notice does not comply with section 23(6); and that the Court be able to extend the appeal period, and every notice state the last day for appeal as a date.

6. Who decides [40]

The Act says the Commissioner decides. The Commissioner's Office has published that in practice decisions on section 21 applications are made jointly by two senior officials on a consensus basis, and reach the Commissioner where the two do not agree or where one of them is away. Section 103 permits delegation, and I do not say the practice is unlawful. But the applicant is not told who decided, and the practice bears on whether review by the Commissioner would be self-review. I recommend that the approval identify who decided and that the delegation be published.

7. Workload, and the size of the public body [6, 16, 28]

Every one of the ten disregard decisions cites section 21(1)(a), unreasonable interference with the operations of the public body. The 2020 statutory review recommended removing the section 21(1)(a) ground and it remains. The Commissioner's Office has told me that in assessing it "we do factor in the capacity of the public body", and the consequence may be that the right of access is narrower the smaller or busier the body is. I recommend that workload never be a ground for ending access, and that it justify only a bounded, reasoned and reviewable delay.

8. Time limits that hold [11, 12, 14, 15, 18, 19, 45]

Province-wide in 2024-25, by the Commissioner's own report, public bodies made 1,102 extension applications on 721 requests; 1 per cent were denied, and 93.9 per cent of all the days asked for were approved. Twelve of my requests have been extended. Six of the twelve have been extended more than

once and one three times, to 154 calendar days from receipt. At the department holding the most of my requests, every one of the six that went forward for processing was extended, three of them more than once. Nine of nineteen notices reached me on, or within one business day of, the deadline they extended. Section 23(2) sets a standard, “necessary and reasonable”, but no grounds, no cap and no minimum-period rule, and section 23(3) allows three business days to apply it with nobody heard. I recommend an earlier application, enumerated grounds, the minimum period necessary, notice to the applicant before the existing deadline expires or the extension is of no effect, release of records as they are ready, a final response that accounts for the time taken, an aggregate cap, and that a public body’s pattern of extensions be treated as a timeliness question.

9. Custody: the route the Act does not regulate [22 to 29, 46]

Section 14 is permissive. A public body that concludes another body holds the records may transfer the request, or may simply say so and close the file. It need not search first or be right. A transfer restarts the twenty business days; under the federal Act it does not. A request that arrives by transfer can then be counted as part of the receiving body’s workload. I recommend a search and a written custody statement before another body’s custody is asserted; a duty to transfer or decide; no restart of the clock; confinement of a transfer to what its ground reaches; the receiving body’s file details to the applicant; express reviewability of both routes; and, where one event involves several public bodies, a designated body to coordinate the responses.

10. Counting and publishing [10, 21, 30, 41]

The Commissioner’s annual report voluntarily publishes province-wide totals for applications under sections 21 and 23 and how many were approved. Section 105 does not require it. The figures are not broken down by public body or by ground, and do not show how many requests were extended more than once or for how long in total. So far as I can find, no published figure records transfers or requests closed on the basis that another body holds the records. I recommend that section 105 require all of this.

11. The complaint queue [42]

Section 44(7) lets the Commissioner hold a complaint in abeyance where five complaints from the same applicant about “similar or related records” are active. Sixteen of my complaint files are held that way. The Act sets no limit on how long, does not define “similar or related”, and does not say how the 65 business days in section 46(1) run in the meantime. Because section 52(1) allows a direct appeal only where no complaint has been filed, an applicant whose complaint is parked has no other route. I recommend that the Act define the threshold, cap the period of abeyance, state how section 46(1) applies, and let the applicant elect to go to court while a complaint is parked.

12. What happens to the Committee’s report [44]

Section 117 requires a review every five years and says nothing about what follows. The 2020 review’s recommendation on section 21(1)(a) remains unimplemented. I recommend that the Minister be required to table the report and answer each recommendation in writing within a fixed period.

PART 2. THE REASONS

2.1 Section 21: disregarding a request

What the Act provides

Section 21(1) lets the head of a public body, not later than five business days after receiving a request, apply to the Commissioner for approval to disregard it. The grounds are that the request would unreasonably interfere with the operations of the public body (paragraph (a)); that it is for information already provided (paragraph (b)); or that it would amount to an abuse of the right to make a request because it is trivial, frivolous or vexatious, unduly repetitive or systematic, excessively broad or incomprehensible, or otherwise made in bad faith (paragraph (c)(i) to (iv)).

Section 21(2) gives the Commissioner three business days to decide. Section 21(3) keeps the section 16 clock running in the meantime. Section 21(5) requires the head to notify the applicant once the Commissioner approves, and section 21(6) says what the notice must contain: that the request is refused because the head is of the opinion that it falls under subsection (1) “and of the reasons for the refusal”, that the Commissioner approved, and that the applicant may appeal to the Trial Division under section 52(1).

Section 42(8)(a) bars a complaint to the Commissioner about a request that is disregarded. Section 52(2) gives fifteen business days to appeal. Section 56(4)(a) provides that the Commissioner “shall not intervene as a party” to that appeal. Section 56(7) provides that the record for the appeal “shall be prepared by the head of the public body named as the respondent”.

No notice and no answer

The Act requires no notice to the applicant that an application has been made, and gives no opportunity to respond before it is decided. Section 21(5) provides for notice only after approval. In ten decisions affecting nineteen of my requests I was never told beforehand that an application had been made [B1 to B10]. The nearest thing to a warning was a sentence in one department’s email that, without sufficient narrowing, it “may need to consider” applying [B6]. That is a contingency and not notice. On one request the disregard notice was the only communication I ever received; there had been no acknowledgement [B4].

This is not how the power works elsewhere in Canada. Under the federal *Access to Information Act*, section 6.1(1.3), the head “shall give written notice to the person who made the request... of the suspension of the period, and of the reasons for the suspension, at the same time as they communicate with the Information Commissioner to obtain his or her approval to decline to act.” Notice is mandatory, contemporaneous and statutory, and the Information Commissioner’s published procedure then gives the requester ten business days to file a written response. Saskatchewan’s Commissioner requires the public body to serve its application on the applicant, who has ten days to reply, and publishes the decision with reasons. Alberta’s Commissioner required the same simultaneous service and a written reply under its former Act. British Columbia’s Commissioner tells applicants: “If a public body makes an application under s. 43, then you will have an opportunity to respond.” Quebec’s Act requires the public body to

“inform the applicant that the body is requesting the Commission to disregard the applicant’s request” (section 47). In Ontario, and in Alberta under its current Act, the head decides alone, but the applicant can take that decision to the Commissioner, and Ontario’s Act obliges the head to say so in the refusal notice.

It may be said that the federal power is narrower, because section 6.1(1) of the federal Act is confined to requests that are vexatious, made in bad faith or otherwise an abuse of the right of access, while section 21(1)(a) and (c)(iii) reach workload and breadth. That is right, and it strengthens the point. Where the power to end a request is wider, the case for letting the applicant be heard before it is used is stronger and not weaker.

Of the jurisdictions I could check, Newfoundland and Labrador is the only one where the applicant is neither notified of the application, nor heard on it, nor able to have the decision reviewed anywhere but a court. The three-business-day clock in section 21(2) is what makes participation impossible: the federal and Saskatchewan reply periods alone are longer than this province’s whole decision period.

The Commissioner’s Office has described its own process in these terms. Its newsletter *Above Board* of April 2026, in an article headed “The Information Desk: Applications to Disregard Access Requests” [L5], says: “Given that a decision is required to be made within three business days, it is usually not practical to seek additional submissions or input from public bodies before a decision is made, although in rare cases we may reach out for clarification if needed and if time permits.” If the time allowed defeats hearing from the party that applied, it plainly defeats hearing from the party the application is about. The article does not mention hearing from the applicant. It does recognise what is at stake. It ends its account of the process by referring to “the serious impact that a decision to disregard a request can have on an applicant.”

The subsections are easily misread. One public body wrote to me, two hours after its decision notice: “In accordance with subsections 21(5) and 21(6), you were notified of the application and of your right to appeal” [B1]. Those subsections concern notice of the decision, not of the application.

The applicant’s answer may never reach the decision maker

Nothing in section 21 requires a public body to put the applicant’s side before the Commissioner, and the applicant cannot find out whether it did.

In one instance a department asked me to narrow a request. I answered two days later with a counter-proposal. Five days after that, part of the request was disregarded with the Commissioner’s approval. I do not know when the application was made or whether my answer was before the decision maker, and the Act does not entitle me to know [B6].

A second instance is less favourable to me and I set it out for that reason. A department identified an overlap between a new request of mine and an earlier one, proposed replacement wording, and invited me to suggest wording of my own or to arrange a call. I declined, and offered instead that overlapping records be collected once and cross-referenced between the two files. Six days after my last reply the whole request was disregarded [B10, F]. The department did try to narrow and I did refuse its wording. My point is a different one. I do not know whether the Commissioner’s Office was shown that exchange, and the Act does not require that it be.

Reasons, and what the applicant is allowed to see

Section 21(6)(a) requires reasons. It does not say what a reason is and attaches no consequence when none is given.

Two of the ten notices, as first issued, gave none. One came from a municipality that used a template for an ordinary refusal and told me I could ask the Commissioner to review the decision, which section 42(8)(a) had already made impossible [B3]. The Commissioner's Office wrote to me that the response was "deficient", that the municipality "was required to provide the reason(s) why the request was being disregarded, which it did not", and then: "Although the Town's letter of response is deficient, those defects do not, in our view, nullify the approval granted by this Office nor the Town's decision." The municipality reissued its notice three days later with an apology, which is to its credit. But nothing in the Act required the correction, and the Act does not say whether time under section 52(2) runs from a notice that does not comply with section 21(6). The other notice came from a provincial department. It quoted two paragraphs of section 21(1) and said nothing else, and it did not name a decision maker [B10].

Where reasons were given, they were usually the words of the section. One notice cited four of the grounds in section 21(1) together, and gave reasons addressed to my requests collectively and not to the request it disregarded [B9].

Section 21(5) sets no time for the notice. In two instances the department told me afterwards that the Commissioner's approval had been in its hands for five and for three business days before I was notified [B7, B8]. In each case part or all of the twenty business days was running while I did not know the request had been ended.

The applicant does not receive the Commissioner's decision or any reasons for it, and cannot see the application or the approval afterwards. One public body told me: "Records related to our application for disregard cannot be shared with you," and later that a request for them "would be denied under the mandatory record class exception", citing section 41(c) [G1]. Another told me to file an access request for the records and said in the same email that it would be refused [G3]. The Commissioner's Office refused on the same ground, informally and then in a formal decision [G2]. Two departments have since refused formal requests for their own applications in full under section 41(c) [G3, G4]. My complaints about those two refusals are held in abeyance under section 44(7) [I]. In the meantime each fifteen-business-day appeal period ran, and an applicant deciding whether to go to the Supreme Court had to decide without sight of the case that had been made against the request.

Section 41(c) protects "records connected with the investigatory functions of the statutory office". Whether that reaches a public body's own copy of its own application, or a decision on an application that is not an investigation, has so far as I can find never been decided. The Committee can put it beyond doubt either way.

"The request" and "the requests"

Section 21(1) is written throughout in the singular. The head may apply "not later than 5 business days after receiving a request" for approval "to disregard the request".

One department disregarded eight separately numbered, separately acknowledged requests in a single letter [B5]. The letter records that they were received between 26 June and 3 July 2026. Its operative sentence disposes of “your request”, singular. Its stated ground is aggregate: “Collectively, these requests seek a significant volume of information within a short period of time. The cumulative scope of the requests is excessively broad and would unreasonably interfere with the operations of the public body.” The same department later disregarded three requests in one letter on the same footing [B8], and then a single request on reasons that were about all of my requests to it: “consideration was given to the number, frequency, scope, and subject matter of the requests that you have submitted to the Department” [B9].

Three questions arise that the Act does not answer. Does section 21 authorise an application founded on the cumulative effect of several requests, when the section is drafted around one? If it does, from which request’s receipt does the five-business-day window run? In one instance the Commissioner’s Office counted that window strictly on a single request, writing: “June 25th is the 5th business day following the date of your access request” [L2]. And if an applicant’s other requests may be weighed, which ones, and on what test? In another instance the ground “unduly repetitive or systematic” was approved against an applicant who had made two requests to that department in total [B10].

Other legislatures have confronted the plural expressly. Quebec’s section 137.1 speaks of “requests that are obviously improper because of their number or their repetitious or systematic nature”, runs the time for applying “from the date the applicant’s most recent request was received”, and also lets the Commission “limit the scope of the applicant’s request or extend the time limit”. Ontario’s 2026 amendments let a head respond to requests that “collectively” interfere with operations by proposing a plan for access in stages, which the requester may appeal to the Commissioner (section 24.1). I do not say either model should be copied. I say each answers in terms the questions section 21 leaves open, and each attaches a consequence short of ending the request.

This is not a complaint about anyone’s conduct. It is a gap in the drafting, and it is the kind of thing a statutory review exists to close.

All or nothing

Three of the ten decisions disregarded part of a request and left the rest in process [B1, B6, B7]. So the Commissioner’s Office accepts that section 21 can be applied to part of a request. Nothing in the section requires the head, or the Commissioner, to consider whether that lesser measure would be enough. In one instance the public body had itself identified the difficulty as lying in one portion of a request, and the whole was disregarded [B10, F]. In that request and in another disregarded the same day [B9], the request itself asked that any item considered too broad be set aside and identified so that I could narrow that item alone. The Act gives such a term no effect.

There are lesser measures already in the Act: an extension under section 23, a revised request under section 15(2)(e), a cost estimate under section 26. Section 21 does not rank them. A power that ends the right of access should be the last of these to be used, and the Act should say so.

Advice to divide, and then number and frequency as the ground

Three bodies advised me in writing to divide a large request into smaller ones and file them in sequence: the Commissioner's Office, a provincial department, and a second department [H]. The Commissioner's Office put it this way: "my suggestion would be to break your request down in to several much smaller separate requests, to choose one as a first request, then follow it with the next one after a reasonable period of time, and so on." I should be candid that the advice was to file the pieces one after another and not all at once, and that I did not wait for each to finish before filing the next. The Act gives no guidance on what interval is reasonable, and the advice did not state one. That is the gap recommendation 38 addresses.

The legislative point is this. Dividing a request does not reduce its scope. It multiplies the number of requests and the number of clocks. The Act says nothing about how requests made on that advice are to be treated when a body later relies on "number" and "frequency". In one instance a narrowed request, filed the day after a department's written invitation to submit "a new request with a narrower and more specific scope", was among eight disregarded together ten days later, in a letter that repeated the same advice [B5, H].

Who decides

The Act says the application is made to the Commissioner and that the Commissioner decides. The *Above Board* article describes the practice: "the job of reviewing and deciding on these applications has in practice been delegated jointly to the Senior Access and Privacy Analyst (SAPA) and Director of Research and Quality Assurance (Director)." And: "Decisions to approve or not approve an application to disregard are then made on a consensus basis between these two officials." The matter goes to the Commissioner "in very rare cases where consensus is not achieved", and the Commissioner is also consulted when either of the two officials is away. The article concerns section 21. I do not know whether the same practice applies to section 23.

Section 103 permits the Commissioner to delegate a duty or power to staff, and I do not suggest the practice is improper. The article says two senior officials are always engaged, and that the Office considers this appropriate given the significance of the decision. Three things follow for the Act. The applicant is never told who decided. The delegation is described in a newsletter and not in any published instrument. And where the Commissioner personally has not decided, which on the article's account is most cases, the usual objection to letting an applicant ask the Commissioner to look again, that it would be self-review, falls away.

The grounds actually used

All ten decisions cite section 21(1)(a), unreasonable interference with operations. Eight pair it with "excessively broad". One pairs it with "unduly repetitive or systematic". One cites four grounds at once, including "trivial, frivolous or vexatious", with the collective reasons quoted above. None relies on section 21(1)(b) or on bad faith under section 21(1)(c)(iv). Each decision cites a paragraph (c) ground as well as paragraph (a), so removing paragraph (a) alone would not have changed the outcome. That is why recommendations 36 and 37 matter as much as recommendation 6.

The 2020 statutory review recommended: “Remove the ability to apply to disregard a request on the basis of unreasonable interference with the public body.” It remains. The Commissioner’s Office told me, of that ground and of “excessively broad”: “In making that assessment, we do factor in the capacity of the public body” [L3]. The consequence may be that the same request is answerable if made to a large body and liable to be disregarded if made to a small one. A right of access that contracts with the staffing of the body that holds the records is a policy choice the Legislature has not clearly made, and I would ask the Committee to confront it directly.

I would ask the Committee not to adopt two of the other 2020 recommendations as they stand: extending the application window to ten days, and stopping the section 16 clock while an application is pending. Section 21(3) presently provides that the Commissioner’s decision period does not suspend the twenty business days, and that is right. I adopt the federal notice rule but not the federal suspension rule in section 6.1(1.2). Notice costs the public body nothing. Suspension transfers the whole cost of the application to the applicant. Time should be added only to make room for the applicant to be heard.

2.2 Section 23: extending the time

What the Act provides

Section 15 requires an advisory response within ten business days. Under section 15(2)(b) it is to tell the applicant, where then known, of a cause of delay beyond twenty business days “and an estimated length of that delay, for which the head of the public body may seek approval from the commissioner under section 23”. Section 16 requires a response without delay and within twenty business days, and section 16(2) makes a failure to respond within that period, or an extended period, a deemed refusal.

Under section 23(1) the head may apply to the Commissioner for an extension not later than fifteen business days after receiving the request. Under section 23(2) the Commissioner may approve “where the commissioner considers that it is necessary and reasonable to do so in the circumstances, for the number of business days the commissioner considers appropriate.” That is a standard. It enumerates no grounds, names no factors and sets no cap. Section 23(3) gives three business days to decide. Section 23(4) keeps the twenty-business-day clock running, and I ask that it be kept. Section 23(6) requires the head, on approval, to notify the applicant “without delay” of the reason, that the Commissioner authorised the extension, and when a response can be expected. Section 42(8)(b) bars a complaint about a decision respecting an extension and section 55(a) bars an appeal.

Section 23 has the same structure as section 21. The head applies, the Commissioner decides within three business days on an application the applicant does not see, and the applicant learns of it only once it is approved. A disregard is the graver of the two because it ends access and does not merely defer it. But whatever the Committee does about the applicant’s place in section 21 should be done in section 23 as well.

What the two previous reviews said about this power

The 2014 review designed section 23 as a safeguard. Its conclusion was that “the basic time limit for response should not be increased beyond the existing 30 days”, “there is no need for public bodies to have a unilateral right to extend that basic time limit, and extensions shown by public bodies to be

necessary can be approved by the Commissioner.” The Commissioner’s prior approval was the protection, and the burden was to be on the body to show necessity.

Recommendation 70 of that review was not enacted as written. It required the head to apply “as soon as the public body concludes that an extension will be required, and no later than 15 business days after the request was received”, and it proposed that the Commissioner, if satisfied, “grant an extension for the minimum period that the Commissioner considers to be necessary for the public body to fully respond.” The enacted section 23(1) kept the fifteen days and dropped the “as soon as” duty. The enacted section 23(2) reads “for the number of business days the commissioner considers appropriate.” Neither discipline survived into the statute.

The 2020 review proposed a bounded power. Its proposed section 23.1 would have let a head extend by up to ten business days in specified circumstances, with notice to the Commissioner, and anything further left to the Commissioner. It was not enacted. Even when designing a head-controlled extension, that review thought specified circumstances and a cap were necessary. Section 23 has neither. The Commissioner’s Office told that review, in defence of prior approval: “where there is a time limit that can easily be extended, the extended time invariably becomes the new time limit.” The Office was right about the mechanism. What follows suggests that prior approval has not by itself prevented it.

The province-wide figures

The Commissioner’s annual report for 2024-25 gives the figures [L5]. Public bodies made 1,102 applications for extensions of time on 721 requests, an increase of 34.4 per cent on the year before. Of the 1,102, 987 (89.6 per cent) were approved, 83 (7.5 per cent) partially approved, 11 (1 per cent) denied and 21 withdrawn. “In total, across 1,081 applications (discounting those that were withdrawn), this Office approved 93.9% of additional time requested by public bodies (22,030 days approved out of 23,467 days requested).” The report adds that “where appropriate, this Office will consider multiple applications for the same access to information request”. The report also encourages public bodies to apply: those facing complex and large requests “should consider the time extension provisions” in preference to missing the deadline.

I draw two things from that. An application under section 23 is denied outright about one time in a hundred and cut back in about seven or eight, so from the public body’s side the outcome is close to certain. And 1,102 applications on 721 requests means that repeat extensions are common across the province and are not a feature of my files alone.

Nineteen notices

Twelve of my requests have been extended under section 23, by nineteen notices, from six public bodies [C1 to C19]. Six of the twelve have been extended more than once, and one three times. The table is in the Annex and the notices are available to the Committee. In aggregate:

- Four of the nineteen notices state no length. Six state no reason. One states neither a length nor a new date.
- Where a length is given it runs from eleven to forty business days. Several notices give a number of days without saying whether they are business days, one of them “an additional 60 days”, on a limit the Act counts in business days.

- Nine of the nineteen reached me on, or within one business day of, the deadline they extended. Two more reached me two business days before.
- The longest now stands at 154 calendar days from receipt, on a third extension described in the notice as final.
- Eighteen of the nineteen notices give a new deadline. Nine of those new deadlines have so far come due. Two were met. The other seven were replaced by a further extension, three of them on the very day the deadline fell.

Some of these extensions are justified on their face. Consultation with a police force is an obvious example. Nothing here turns on whether any one extension was warranted. It turns on the absence of any standard by which that question could be answered, and of anyone empowered to answer it.

Two requests, one day, two answers

On the same day I asked two public bodies for the list of residential properties destroyed or damaged in the fires. One, a Crown corporation, responded within the twenty business days, with no extension, producing a list of 194 properties. The other, a department, took a first extension and then a second, to 115 calendar days from receipt [C5, C13]. The two bodies hold different volumes of material, and a property database is not a department's wildfire record set. That is the point and not an objection to it. Section 23 leaves the difference wholly to case-by-case discretion, with no benchmark, no proportionality test and no review.

What is offered as a reason

Across the nineteen, the reason given took these forms. A notice that reproduced section 23(2) and nothing else, setting a new date three months away, from a department whose section 15 advisory response nine days earlier had indicated a final response within two weeks [C9]. Eight grounds at once, in another [C2]. The volume of other requests before the body, in three notices, all of them second extensions; one of the three says in terms that the other requests are the applicant's own [C10, C11, C13]. Avoiding disruption to municipal operations, in one [C14]. And in six, nothing at all. Section 23(6) is satisfied, so far as anyone can tell, by any of these. The Act prescribes no form of notice.

When the applicant finds out

Section 23(1) permits the application on business day fifteen. Section 23(3) allows three business days to decide. Section 23(4) keeps the original clock running. Section 23(6) requires notice "without delay" with no outer limit and no consequence. The arithmetic permits an applicant to be told on the twentieth business day that the twenty-business-day limit no longer applies, and the record shows how close that is to practice. In one instance the coordinator confirmed in writing that the Commissioner's decision had been in the department's hands for two days before I was notified, on the day the existing deadline expired, "due to a significant workload and competing operational priorities" [C13].

The consequence is that the deemed refusal in section 16(2), the Act's principal self-executing protection, cannot be relied on. Until the period has actually expired an applicant has no way to know whether it will apply.

The sequence is predictable

After nineteen notices the sequence can be described in advance, and at one department it has run as follows. The request is acknowledged. Around the tenth business day an advisory response says the search is under way. Late in the period the public body applies to the Commissioner; the notices do not say when. Within three business days the application is approved. The applicant is told on or about the last day of the period. Near the end of the extended period the same thing happens again, and the reason now given is the volume of the body's other requests. A third extension is described as final.

At the department holding the most of my requests, 21 reached it between June and September 2026. Fourteen were disregarded in whole or in part. Six were extended, three of them more than once; one of the six is the remainder of a request disregarded in part. One was refused in full. One is pending, with written notice that an extension will be sought. None of the six that went forward produced a record within twenty business days [L4]. Other public bodies did answer within the twenty business days, some of them fully, which shows that the limit can be met.

I do not say any of this is done in bad faith, and I cannot see the applications. I say the Act gives a busy public body no reason to do otherwise. An extension costs one application. It is denied about one time in a hundred. It needs no enumerated ground. It can be repeated. The applicant is not heard and cannot complain or appeal. The Commissioner's annual report tells public bodies facing large requests to consider it. And the alternative, a deemed refusal under section 16(2), exposes the body to a complaint it can avoid by applying. A time limit that can be set aside that reliably is not operating as a limit. That is the mechanism the Commissioner's Office described to the 2020 review in the passage quoted above.

Is a second extension authorised at all?

Section 23(1) permits an application "not later than 15 business days after receiving a request." In one instance a department applied for a second extension about thirty business days after that window had closed, and the extension was approved [C13]. If section 23(1) permits that, the words "not later than 15 business days after receiving a request" do no work for a second application, and a public body may apply at any point in the life of a request. If it does not, the Act should say so. The Commissioner's annual report states that the Office will, where appropriate, consider multiple applications for the same request, so the Office reads the section as permitting them. The text does not settle it. Nothing limits the number of extensions or the aggregate delay. Ontario's 2026 amendments allow a head to extend "one additional time", and only where the requester consents, the records turn out to be significantly more numerous than first identified, or one of two listed circumstances arises that "was not reasonably foreseeable when the time limit was extended" (section 27(1.1)).

How the same power works elsewhere

The picture for extensions is different from the picture for disregards in an instructive way, and I have tried to state it against my own interest.

Every jurisdiction I have examined enumerates the grounds on which time may be extended: the federal Act at section 9(1)(a) to (c); Ontario at section 27(1); Alberta at section 16(1) of its current Act; Saskatchewan at section 12(1); Manitoba at section 15(1); New Brunswick at section 11(3); Nova Scotia at section 9(1); Prince Edward Island at section 12; the Northwest Territories at section 11(1); and British Columbia at section 10(1), subject to the qualification below. Section 23(2) enumerates none. Most

require the notice to tell the applicant that the extension may be challenged. Section 23(6) contains no such statement, and could not, because there is nothing to point to. Several cap the extension: Saskatchewan at thirty days, Quebec at ten. The federal Act does not cap, but requires notice to the Information Commissioner of anything beyond thirty days.

Requiring the regulator's approval is not what makes this province unusual. Several jurisdictions require it beyond a threshold. What is unusual is that here the head must go to the Commissioner from the first day, there is no enumerated ground to apply, and the result is then removed from review. I should be careful about one claim. British Columbia's section 10(2)(b) lets the head extend, with the Commissioner's permission, "if the commissioner otherwise considers that it is fair and reasonable to do so, as the commissioner considers appropriate", which is close in structure to section 23(2). So this province is not alone in having a no-grounds extension power. What I have not found anywhere else is the combination: prior approval for every extension including the first, no enumerated grounds, and an express statutory bar on both complaint and appeal. I have not been able to obtain the Yukon provisions and make no claim about them.

Six findings on section 23

An extension can be notified after the applicant's remedy would have vested. Notification carries no outer limit and no consequence, and section 23 as drafted allows the deemed refusal to be displaced before an applicant can rely on it.

The reason requirement has no floor. A notice reproducing the statutory test and a notice listing eight grounds are treated alike, and six of nineteen state no reason at all.

Section 23(2) has no enumerated ground and no cap, and lost the discipline it was designed with. Recommendation 70 of the 2014 review would have confined the Commissioner to the minimum period necessary. The enacted subsection says "appropriate".

It is not clear the Act authorises a second extension. Six of twelve extended requests have been extended more than once.

Workload is admitted without the safeguards that accompany it in section 21. Where the Act recognises burden in section 21 it does so with a five-business-day window, enumerated grounds, a prescribed notice and a route of appeal. Section 23 admits the same consideration with none of them.

There is no review under the Act. Section 42(8)(b) bars a complaint and section 55(a) bars an appeal, which leaves an application for judicial review as the only recourse. Section 24 is an uncertain substitute: it requires extraordinary circumstances, section 24(7) excludes procedures for which the Commissioner is responsible, which arguably includes the section 23 decision, and a section 24 decision is itself barred from complaint and appeal by sections 42(8)(c) and 55(b).

2.3 Sections 21 and 23 on the same request

I had been treating disregards and extensions as two problems. On three requests they have been used one after the other [D1 to D3]. In each, section 21 removed part of the request, and section 23 then removed the deadline from what was left. On one of the three the extension notice stated neither a length nor a date. On another it stated neither a length nor a reason. On the third it arrived the afternoon before

the response was due. On none was I told an application had been made; on none have I seen the application; on none is a complaint available; and on the extension there is no appeal either. So far as I can find, neither previous review examined the two provisions in combination on a single request.

Across the 62 requests, nineteen have been disregarded in whole or in part, twelve have been extended, and three have had both. That is twenty-eight of 62 ended or deferred by one or other of the two provisions the Act puts beyond complaint.

The cumulative effect

Consider the remedy I was offered. Three bodies told me to break my requests into smaller ones, and to file them one at a time. Splitting a request does not reduce its scope. It multiplies the number of clocks, each of which can be extended again, and it moves the work of managing the file from the department to the applicant. The remedy offered under section 21 is defeated by the operation of section 23, and in two of the three cases the bodies offering the remedy are bodies taking the extensions.

Consider what is already available and is not used. Nothing in section 23 prevents a public body from releasing records as they are cleared. I have offered exactly that more than once. When I asked one department to release the items that did not depend on an outside consultation, its written answer was that there is no mechanism for a partial extension and that the extension applies to the request as a whole. When I explained that I was asking for release and not for a split extension, it answered: “We will provide our final response once all steps in the process have been completed” [L6]. The Act contemplates a single final response and says nothing about the interval, so records that are ready may be held to the extended date. Ontario’s 2026 amendments now provide for access in stages (section 24.1).

Consider what arrives at the end. An extension is approved on the basis that more time is needed to search, review or consult. Nothing in section 23 requires the public body to show afterwards that the time was used for that, and nothing follows if the response that eventually comes does not answer the request. On one request the response arrived two days after the due date, comprising eleven meeting agendas and no minutes, with no decision on access, no provision cited for anything not produced, and none of the notice section 17(1)(c) requires [L1]. Section 16(2) makes a late response a deemed refusal. It says nothing about a response, on time or late, that does not answer the request.

That completes a circuit. Part of the request is removed under section 21, and the applicant is not heard. The deadline on the remainder is removed under section 23, and the applicant is not heard. What arrives at the end may be incomplete, and the remedy for that is a complaint under section 42, which may then be held in abeyance under section 44(7). Each stage is lawful. Each stage is someone’s discretion exercised on material the applicant never sees. At no point does the Act give anyone the job of looking at the whole.

I do not say anyone has acted outside the Act, and I make no allegation of coordination between public bodies and the Commissioner’s Office. I say something I think matters more for the Committee’s purposes: the Act produces this result without anyone intending it. A design that reaches this result without misconduct cannot be corrected by anyone administering it. It can only be corrected here.

2.4 Custody: the route the Act does not regulate

What this adds

Sections 21 and 23 are two ways a request can fail to produce records, and both leave a trace: an application is made, the Commissioner decides, and a notice goes to the applicant. There is a third way, and the Act says almost nothing about it. A public body may conclude that the records belong to a different public body. Having concluded that, it may transfer the request under section 14, or it may simply say so and close the file. Nine times between 26 June and 8 September 2026, across five public bodies, a body disposed of a request of mine, or part of one, on that basis. Six of the nine involved no transfer.

What the Act provides

Section 14(1) is the whole of it:

The head of a public body may, upon notifying the applicant in writing, transfer a request to another public body not later than 5 business days after receiving it, where it appears that (a) the record was produced by or for the other public body; or (b) the record or personal information is in the custody of or under the control of the other public body.

Section 14(2) provides that the receiving body shall respond “as if the applicant had originally made the request to and it was received by that public body on the date it was transferred to that public body.”

The power is permissive. Nothing requires a public body that has concluded another body holds the records to transfer the request. Nothing requires it to say what search it made before reaching that conclusion, or to name the body it has in mind, or to be right. Nothing requires it to tell the applicant the receiving body’s file number, coordinator or response date. Nothing limits a transfer to the records answering the ground relied on. And nothing attaches a consequence to any of it. The duty to assist in section 13 is the only general obligation in play, and it does not mention custody. The Commissioner’s Office reads section 14 as permissive, and I accept that reading. It is the reason this part is addressed to the Committee: if a public body may close a request by naming another body, and need not transfer it, search first or be right, then no complaint and no appeal can supply what the section does not require.

The record

Quoted text is verbatim from the body’s own letter or email. “s.14” means a formal notice of transfer citing section 14 was served. File numbers are in the Annex.

#	Date (2026)	Public body	What was said	Transfer
E1	26 Jun	Executive Council, Cabinet Secretariat	If I was seeking records from the Premier’s Office, “a separate request must be submitted directly to that Office”, because the Cabinet Secretariat “does not have custody or control over records held by another public body”	No
E2	3 Jul	Justice and Public Safety	“your request was transferred to the FAL ATIPP on July 3, 2026, under authority of section 14” (911 call and dispatch records)	s.14
E3	3 Jul	Justice and Public Safety	The same operative paragraph as E2, on a request for the Fire Commissioner’s origin-and-cause record for one property	s.14

E4	7 Jul	Justice and Public Safety	“all records responsive to your request within the specified timeframe would fall under the custody and control of FAL. We also note that you indicated the same request has been submitted to FAL; therefore, there was no need for us to transfer your request.” (three letters in the same terms, on three requests)	No
E5	10 Jul	Justice and Public Safety	“all records responsive to items 1 through 10 and item 12 of your request ... fall under the custody and control of FAL ... therefore, a transfer of your request was not required.”	No
E6	14 Jul	Finance	“as this request was also submitted to the Department of Forestry, Agriculture and Lands, it could not be transferred”	No
E7	31 Aug	Justice and Public Safety	“all records responsive to your request within the specified timeframe would fall under the custody and control of FAL.” No provision cited. The letter refers to “consultations with relevant departmental staff” and describes no search	No
E8	3 Sep	Newfoundland and Labrador Housing Corporation	“the above noted records for Item 3 were produced by the Premier’s Office ... Item 3 was transferred to the Premier’s Office on September 3, 2026, under authority of section 14”	s.14
E9	8 Sep	Office of the Premier	On the item received by transfer at E8: “the Office of the Premier has no records responsive to your request”, and I “may submit” the request to the Cabinet Secretariat of Executive Council, “as they may have information on the records you are looking for.”	No

Three of the nine were transfers. Six were statements that another body holds, or may hold, the records, with no transfer. Three of those six expressly declined to transfer.

The two are not equivalent, and the Act treats them the same

A transfer keeps the request alive. Section 14(2) puts it on the receiving body’s clock, and a deemed refusal under section 16(2) remains available if that clock runs out. A statement of another body’s custody, without a transfer, leaves nothing running anywhere. There is no receiving body on the file, no file number, no response date, and no period capable of expiring, so section 16(2) cannot engage. The request is closed. The applicant’s only route is a complaint under section 42(1), at the end of which the answer may be the one already given: that the body was not required to transfer.

One of the three express refusals gives as its reason that the applicant had also filed with the other body, so there was no need to transfer [E4]. Another says a transfer was not required [E5]. In the third, the department treated the parallel request as making a transfer impossible: “it could not be transferred” [E6]. Nothing in section 14 supports that reading, and nothing in the Act contradicts it either. Whether an applicant has also written to another public body is not a discharge of the body that holds the request.

A transfer is not, by itself, a discipline

E8 shows what section 14 permits at the other end. The request was in five parts. The body transferred one of them, which sought the records of a promised reevaluation of a housing assistance programme that the body itself administers, on the stated ground that those records “were produced by the Premier’s Office.” What the notice transferred, on its face, is the item, not the records answering that ground. The notice identifies no record on that item as remaining with the transferring body. It states no search. The

transfer was made on the fifth business day. Under section 14(2) that restarted the twenty business days, so that the item could take twenty-five, and gave the receiving body fresh rights to apply under sections 21 and 23.

E9 is what happened next. Within three business days the receiving office answered that it had no responsive records and suggested that I submit the request to a third body. It was inside its own five-business-day window under section 14 when it wrote, and did not transfer. So one item of one request has now passed through two public bodies and been pointed at a third, and no body has yet stated what search it made.

Where the request lands, and what happens to it there

A transfer only helps if the receiving body answers. E2 and E3 are the test case. On 3 July one department transferred two of my requests to another under section 14. The receiving department acknowledged both on 6 July. On 10 July it disregarded both of them, in the single letter that disregarded eight requests at once on the grounds of cumulative scope [B5]. Seven days from arrival to disposal. I was not told that an application had been made, and under section 21 I could not have been.

The mechanism connects to Part 2.2. Requests routed to a body by other bodies become part of that body's volume, and volume is then available to it as a ground both for disregarding under section 21(1) (a) and for extending under section 23. Nothing in the Act prevents a request from being counted against itself in that way, and nothing requires the body that sent it to know what happened after it arrived.

So on some requests a department says the records are another department's and does not send the request there [E4, E5, E7], and the two requests that were sent there were disregarded within the week. I do not say either position was wrong. Nothing in the Act prevents both being taken at once, and the applicant is the only person in the sequence who bears the cost.

Nothing in section 14 limits how many times a request may be passed on, requires a receiving body to accept a transfer, or provides any way to resolve a disagreement between two public bodies about which of them holds the records.

Three positions about one office

Within eleven weeks one body told me to make my own request to a particular office [E1], a second body transferred part of a request to that office under section 14 [E8], and the office answered that it had no records and pointed me back to the first body [E9]. Different records were in issue each time and all three responses are permitted. Nothing in the Act makes them consistent or requires any of the three to explain the course it took.

Why this bears on the Committee's other work

Sections 21 and 23 both cost a public body something to use. Each requires an application, the Commissioner's approval within a fixed period, and a notice to the applicant. Each produces a decision that exists somewhere and could be counted. A custody statement requires none of that. There is no application, no approval, no notice period, no form, no ground to satisfy and no reason to state. If the Committee tightens sections 21 and 23 and leaves sections 13 and 14 as they are, it will have regulated two routes and left untouched the one that requires no application.

Why the practice is invisible

Each of the nine dispositions is unremarkable on its own. A transfer notice reads as service. A letter identifying the responsible department reads as assistance. Nothing in any single one of them would strike a reader as a failure of the Act, and I did not read them that way at the time either. The pattern is only visible in the aggregate. So far as I can find, no published figure records how often a public body closes a request by naming another body. There is no application to count and no approval to publish. This is the part of the Act's operation that leaves no trace, and the only reason I can describe it at all is that it happened to me nine times in eleven weeks.

How the federal Act handles transfer

I have checked one comparator closely rather than several loosely. Section 8 of the federal *Access to Information Act* is like section 14 in that transfer is discretionary. It turns on which institution has the greater interest, which section 8(3) defines. It differs in one respect that matters a great deal in practice. Under section 8(2) the transferred request is deemed to have been made to the receiving institution on the day the original institution received it. The clock does not restart. Under section 14(2) of this Act the request is deemed received on the date it was transferred. A transfer made on the fifth business day therefore restarts the twenty business days here; federally the original period keeps running.

2.5 The remedy, and who is watching

The remedies are upside down

Section 42(8) removes four matters from the complaint process: a disregard, a time extension, a variation of procedure, and a cost estimate or refusal to waive a cost. A disregard is the only one of the four that ends access to the records altogether. Yet if a public body refuses a single page, the applicant may complain to the Commissioner at no cost, the burden of proof is on the public body under section 43(1), and the Commissioner investigates. If the public body ends the whole request under section 21, none of that is available before the Commissioner.

What the Act offers instead is an appeal to the Trial Division within fifteen business days. In practice that means an originating application, a sworn affidavit with exhibits, a filing fee, originals delivered to the registry in St. John's, and service on the respondent and, under section 56(2), on the Commissioner and the minister responsible for the Act. The respondent is represented by Crown counsel. Section 56(4)(a) bars the Commissioner from intervening as a party, so the Office that approved the disregard does not appear to explain it. The Commissioner's annual report for 2024-25 says of this route: "Although there is recourse, the Court process can be time consuming and costly." Section 56(7) has the respondent prepare the record. Section 59(1) makes the appeal a new matter, which is a real protection, but the applicant begins it without having seen the application or the approval.

Ten disregard decisions meant ten separate fifteen-business-day periods. The first five expired without an appeal. I have since filed three, against two ministers, covering three decisions and five requests, without a lawyer [J]. Printing, commissioning of oaths and the three filing fees have cost \$850 so far. I filed them because it was the only route the Act leaves open. Two further disregards were notified on 17 September 2026 and each carries an appeal period that ends on 8 October 2026 [B9, B10].

For an extension there is no route under the Act at all. Section 42(8)(b) bars the complaint and section 55(a) bars the appeal.

Writing to the Commissioner before a decision

Twice I have written to the Commissioner before a decision, because the Act gives an applicant no other way to be heard. On the first occasion a department's advisory response under section 15 said it intended to apply for an extension, and I wrote opposing it and offering staged release. On the second, after a disregard, I made a fresh request in the department's own suggested wording and wrote to the Commissioner setting out the earlier correspondence in case a further application was made [K]. The Act does not say whether the Commissioner may or must take such a letter into account, and I do not know whether either was. An advisory response that mentions an intended application is the nearest thing to notice the Act now produces, and it is optional.

The complaint queue

Where a complaint is available, section 44(7) allows the Commissioner, once five complaints from the same applicant "that deal with similar or related records" are active, to hold any additional complaint in abeyance until one of the five is resolved. On 14 September 2026 the Commissioner's Office told me that I had filed complaints regarding 21 access requests and listed sixteen complaint files held in abeyance, the oldest received on 16 July 2026 [I]. They concern eight public bodies and range from a no-records response to a refusal to correct personal information.

I understand why the provision exists. Four things about it are left open. "Similar or related records" is not defined. In my case complaints against eight different public bodies, about different records, have been treated as falling within it. There is no limit on how long a complaint may be held. The Act does not say how the 65 business days in section 46(1), which run from "receiving the complaint", apply to a complaint that is being held. And because section 52(1) permits a direct appeal only where the applicant "has not filed a complaint", an applicant whose complaint is parked cannot go to court instead. Having complained, the applicant cannot appeal, and the complaint does not move.

What is counted, and what is not

The Commissioner's annual report publishes province-wide totals for applications under sections 21 and 23. For 2024-25 it reports 109 applications to disregard, of which 78 (72 per cent) were approved, 12 (11 per cent) partially approved and 15 (14 per cent) denied, and the extension figures set out in Part 2.2. The Office does this voluntarily. Section 105 lists what the annual report must cover, including persistent failures to respond in a timely manner, and the use of sections 21 and 23 is not on the list. The published figures are not broken down by public body or by ground. They do not show how many requests were extended more than once or the total delay on any request. So far as I can find, nothing at all is published on transfers or on requests closed because another body is said to hold the records.

My own files cannot show an approval rate, because by their nature they contain only approvals: I have never been told of an application that was refused. What they show is the view from the other side of figures the Office already publishes. The Committee is better placed than I am to obtain the breakdown, and the Act should require it to be published.

What happens to a statutory review

Section 117(1) requires the Minister to refer the Act to a committee every five years. Section 117(2) requires the committee to review Schedule A. The section says nothing more. It does not require the report to be tabled in the House of Assembly, does not require a response, and sets no time for either. The 2020 review recommended removing the ground in section 21(1)(a). It was not removed. That ground has since been relied on in every one of the ten decisions in the Annex. I raise this not as a criticism of anyone but because it goes to whether the work the Committee is now doing will have any effect, and it is within the Committee's power to recommend that the Act say what happens next.

Not yet, not us, too much

Put the three provisions side by side. Short of a decision on access, there are three answers a citizen can receive: not yet (section 23), not us (sections 13 and 14), and too much (section 21). Each is lawful. Each can follow another on the same request, and one subject can draw all three from different public bodies at the same time. On the fires, one department answered that the records were another department's [E4, E5, E7]. That department disregarded fourteen of the twenty-one requests that reached it, in whole or in part [B2, B5, B7, B8, B9, L4], and extended six of the others [C4 to C7, C15, C16]. One body told me to ask a particular office; when another body's transfer reached that office, it pointed me back to the first [E1, E8, E9].

Consider what following that asks of one person. Between June and September 2026 I received nineteen extension notices, ten disregard decisions and nine custody dispositions from nine of the twelve public bodies. Every disregard decision and every custody response started a fifteen-business-day clock for the applicant: to appeal under section 52(2) and, for the custody responses, to complain under section 42(2). The extension notices started none, because under the Act nothing can be done about them. The Commissioner may allow a longer time for a complaint under section 42(5). Section 52 contains no power to extend, and I have found no provision that clearly lets the Court extend a period the Act fixes. The public bodies' own twenty business days, by contrast, were extended nineteen times. Keeping up has meant complaints on 21 requests, three applications to the Supreme Court with sworn affidavits, and a working knowledge of a statute I had not read before June. By my log, following these files has also meant close to 600 pieces of correspondence in fourteen weeks, received and sent, with public bodies, the Commissioner's Office, other oversight offices and the court registry [L7]. I do not have a lawyer. A person without the time or the stamina for this may well stop at the first notice, and nothing would record that they had.

Section 3(1)(a) says the Act is to facilitate democracy through "ensuring that citizens have the information required to participate meaningfully in the democratic process", and section 3(2)(f)(ii) calls for oversight that "facilitates timely and user friendly application of this Act". I do not say the people administering the Act have been discourteous; most have not. My point is about where the Act places the work. Each of the three answers reaches the applicant as a letter. Each then costs the applicant a complaint, an appeal or a fresh request, on a strict clock, and the applicant is the only party who must go to court to test any of it. An access statute whose only remedy against a disregard is a Supreme Court application is hard to square with what section 3 says the Act is for.

A last word

I did not set out to make 62 access requests. I lost my house at Ochre Pit Cove in the 2025 Conception Bay North wildfires and I wanted to understand what happened. A wildfire runs through a dozen public bodies: the department that fights it, the one that ran emergency services at the time, the one that funds the recovery, the one that houses people afterwards, the town, the health authority, the department that owns the aircraft. That is why there are so many requests. More than a year later I know a great deal about sections 14, 21 and 23 and very little more about the fire. That is the operation of the Act, and it is what I would ask the Committee to look at.

I have given notice of my intention to present at a public hearing and would take a virtual slot. I would speak to the recommendations in Part 3.

PART 3. RECOMMENDATIONS IN FULL

Offered to be worked on, not adopted as written. Recommendations 1 to 21 are as filed on 1 September 2026, with wording tidied and references to my own files moved to the Annex. Recommendations 22 to 47 are new to the Committee.

Section 21

1. That before applying under section 21 the head be required to ask the applicant to narrow the request, and to show on the application that it did so, consistent with the duty to assist in section 13.
2. That section 21 require the public body, at the time it applies, to give the applicant written notice that it has applied and the reasons, following section 6.1(1.3) of the federal *Access to Information Act*; to serve a copy of the application, as Saskatchewan's Commissioner requires, notwithstanding section 41(c); and to include with the application any correspondence in which it asked the applicant to narrow the request, together with the applicant's reply.
3. That the applicant have a fixed period, of not less than five business days, to file a written response to the application with the Commissioner.
4. That the period in section 21(2) be extended only so far as is necessary to accommodate recommendations 2 and 3, and that section 21(3) be preserved so that the section 16 clock continues to run. Recommendation 32 sets out how.
5. That recommendations 2, 3 and 4 apply equally to an application under section 23, which has the same structure and the same absence of the applicant.
6. That the 2020 review's recommendation to remove the "unreasonable interference with the operations of the public body" ground in section 21(1)(a) be implemented.
7. That the Committee choose one of two coherent models and complete it. Either prior approval by the Commissioner, with the applicant heard and a real route of review; or the Ontario and Alberta structure, in which the head decides alone and the applicant may take the decision to the Commissioner afterwards, with the head obliged to say so in the notice. If the objection to repealing section 42(8)(a) is that the Commissioner should not review the Commissioner's own approval, the Office's newsletter records that these decisions are taken in practice by two delegated officials and reach the Commissioner where they disagree or where one of them is away, so in most cases review by the Commissioner personally would not be self-review. Failing either model, that the public body bear the applicant's costs of a section 52 appeal from a disregard where the appeal succeeds, and that section 56(4) be amended so that the Commissioner may explain the basis of an approval on that appeal.
8. That section 21 state expressly whether one application may cover more than one request and, if it may, from which request's receipt the five-business-day period runs.
9. That section 52(2) state that time runs only from service of a notice that complies with section 21(6). Recommendation 34 says what compliance should mean.

10. That decisions on section 21 applications be published with reasons.

Section 23

11. Restore the 2014 timing duty, with a longstop. Require the head to apply as soon as the public body concludes that an extension will be required, and set the longstop at ten business days to align with the section 15 advisory response, which already contemplates a cause of delay and its estimated length being communicated where known.

12. Give “without delay” a number and a consequence. Add a subsection to section 23: the head shall notify the applicant within one business day of the decision and, in any event, before the day on which the period then applicable expires. Where notice is not given in time, the extension is of no effect and the period then applicable continues to apply. The arithmetic for a first extension, taken with recommendations 11, 20 and 32, is this: application by business day ten, the applicant’s response by day fifteen, decision by day eighteen, notice by day nineteen. A later application would need to be made at least nine business days before the period then applicable expires.

13. Give the reason requirement content. Amend section 23(6) to require the notice to state the enumerated ground relied on; the approximate number of records or the systems to be searched; where consultation is the ground, the party and the date contact was made; the dates of application and approval; and the length in business days. Provide that reproducing the wording of the Act is not a reason.

14. Settle repetition, and cap the total. State expressly whether a second or subsequent application is authorised, given that section 23(1) ties the window to receipt of the request. If it is, permit one only where circumstances arose after the first that could not reasonably have been foreseen, which is in substance the test Ontario adopted in 2026 at section 27(1.1) of its Act. Set an outer aggregate limit. Whatever figure the Committee prefers, there should be one.

15. Restore the 2014 discipline to section 23(2). Replace “for the number of business days the commissioner considers appropriate” with the minimum period the Commissioner considers necessary for the public body to respond, and enumerate the grounds on which an extension may be sought, as the other jurisdictions in Part 2.2 do. The enumerated grounds supply the test that section 23(3) presently lacks.

16. Workload. Recommendation 6 asks that the section 21(1)(a) ground be repealed. I do not ask that operational burden be made irrelevant. Taken together the two recommendations propose one allocation: workload should never justify ending access, and should justify only a bounded, reasoned, proportionate and reviewable delay. The enumerated grounds in recommendation 15 may therefore include volume-based interference, but a public body’s general staffing or workload, and the number of other requests before it, including other requests by the same applicant, should not by themselves be a ground. Alberta’s current Act makes concurrent requests by the same applicant a ground in terms, at section 16(3), and Manitoba’s section 15(1)(b)(ii) refers to “the number of requests made by the applicant”. I would ask the Committee not to follow them on this point.

17. One application, several requests. The question in recommendation 8 arises under section 23 as well: several requests have been extended on a single day, and notices have justified an extension by reference to the applicant's other requests. Section 23 should answer it too.

18. Release records as they become available. Sections 16 and 17 contemplate a single final response and the Act does not say whether records already cleared may be released as they are ready. Provide that they shall be, and that an extension is not authority to withhold ready records to the extended date. Ontario's section 24.1, in force since July 2026, provides for access in stages and gives the requester an appeal to the Commissioner against the plan. Ontario stops the clock while the requester considers the plan; I do not recommend that part.

19. Require the extension to be accounted for. Where an extension has been granted, require the final response to state what was done in the extended period, and provide that a response which does not address every item of the request is a deemed refusal under section 16(2) in respect of the items not addressed, whatever its date.

20. The applicant heard before approval, and a route afterwards. Add a subsection to section 23: the head shall, at the time of applying, give the applicant written notice and a copy of the application notwithstanding section 41(c), as in recommendation 2; the applicant shall have not less than five business days to file a written response with the Commissioner; and the decision period shall run from the end of that period. On review: amend section 42(8) so that a failure to comply with section 23(6) may be complained of, and repeal section 55(a). Because an extension is approved by the Commissioner and not decided by the head, the amendment should make clear whose decision is appealed. Failing that, the alternative is the model other jurisdictions use: let the head extend on enumerated grounds and give the applicant a complaint afterwards.

21. Publish. Publish decisions on section 23 applications with reasons, and put on a statutory footing, and extend, what the Commissioner's annual report now does voluntarily: publish annually, by public body, the number of applications received, approved and refused, the aggregate additional business days granted, and the number of requests extended more than once.

Custody and transfer

22. Require a search before another body's custody is asserted. Where a public body responds by stating that responsive records are in the custody or control of another public body, require it to name that body and to state what search it conducted before reaching that conclusion: the systems searched and the units canvassed. Provide that a response asserting another body's custody without doing so is a deemed refusal under section 16(2).

23. End the bare assertion. Where a public body concludes that another public body holds responsive records, require it either to transfer the request under section 14 or to serve a written custody statement with the content in recommendation 22. Provide expressly that the fact the applicant has also made a request to another public body neither requires nor prevents a transfer, and does not discharge the body holding the request.

24. Confine a transfer to what the ground reaches. Provide that a transfer under section 14 operates only in respect of the records answering the ground relied on, and that the transferring body shall state which parts of the request it retains and shall answer them within the period that applied before the transfer.

25. Do not restart the clock. Amend section 14(2) to follow section 8(2) of the federal Act, so that a transferred request is deemed to have been received by the receiving body on the day the original body received it. As enacted, section 14(2) gives a transfer made late in the window a fresh twenty business days and fresh rights to apply under sections 21 and 23. If the Committee thinks the receiving body would then have too little time, allow it five business days from the transfer to apply under section 23 only.

26. Tell the applicant where the request went. Require the transferring body to provide the applicant, within a fixed period, with the receiving body's file number, the name of its coordinator and the date a response can be expected.

27. Make both routes reviewable. Confirm in terms that a decision to transfer under section 14, and a decision to close a request by asserting another public body's custody without transferring, are each an act relating to the request for the purposes of sections 42(1) and 52(1).

28. Stop a transferred request being counted against itself. Provide that a request transferred to a public body under section 14 shall not be relied on by that body, in an application under section 21 or section 23, as part of the volume of requests before it.

29. Limit onward transfer, and resolve custody between bodies and not through the applicant. Provide that in any event a request may be transferred once, and that a body which considers a transfer to it was wrongly made shall refer the question to the Commissioner and shall not transfer the request onward or close it.

30. Publish. Publish annually, by public body, the number of requests transferred under section 14, the number received on transfer, and the number closed on the basis that another public body holds the records.

New recommendations on sections 21 and 23, the remedy and oversight

31. No approval unless the applicant was served. Provide that the Commissioner shall not approve an application under section 21 or section 23 unless satisfied that the applicant was given the notice and the copy of the application in recommendations 2 and 20 and that the response period has ended. Recommendation 2 places a duty on the head. This places the matching duty on the decision maker, so that a failure by the head cannot be cured by the approval.

32. A decision period that allows inquiry, with a default. Provide that the three business days in sections 21(2) and 23(3) run from the end of the applicant's response period; that within the decision period the Commissioner may put questions to the head or to the applicant; and that an application not decided within the period is deemed not approved, so that sections 21(4) and 23(5) apply. The Commissioner's Office has written that the present period usually makes it impractical to go back even to the public body. The section 16 clock should continue to run throughout.

33. Put the duty to assist on the face of the application. Require an application under section 21 to state what the public body did under section 13 before applying, to attach the correspondence, and to set out any proposal the applicant made for reducing the work, including a proposal the public body did not accept. Require the Commissioner to have regard to whether those steps were taken and whether the applicant's proposal would answer the difficulty. Where a public body has engaged and the applicant has declined its proposal, the application should say that too.

34. Reasons, with a consequence. Amend section 21(6) so that the reasons must address the request itself and each ground relied on, and provide that reproducing the words of section 21(1) is not a reason. Require the notice to name the decision maker within the public body, to give the dates of the application and of the approval, and to be given within two business days of the approval. Require the Commissioner to give written reasons for an approval to the applicant as well as to the head. Provide that a notice which does not contain the matters required is not a notice for the purposes of section 52(2), as recommendation 9 proposes.

35. The application and the approval belong in the applicant's hands. Provide that section 41(c) does not apply, as against the applicant whose request is concerned, to an application under section 21 or section 23 or to the Commissioner's decision on it, whether the record is held by the public body or by the Commissioner's Office. Provide that on an appeal from a disregard the record prepared under section 56(7) shall include both.

36. "The request" and "the requests". Beyond recommendation 8, state whether the grounds in section 21(1) may be made out by reference to requests other than the one the application concerns. If they may, require the application and the notice to identify the other requests relied on; require an overlap in the records sought and not merely in subject matter; exclude requests made to other public bodies; and exclude requests already disregarded, which impose no continuing burden. Quebec's section 137.1 is an example of a provision that addresses several requests in terms, fixes the time for applying by reference to the most recent request, and allows the regulator to limit scope or extend time as an alternative to authorising a disregard.

37. The least drastic measure. Require the head, before applying, and the Commissioner, before approving, to consider whether disregarding part of the request, an extension under section 23 or staged release would answer the difficulty, and permit a request to be disregarded in whole only where no lesser measure would. Where the request itself asks that any item thought too broad be identified so that it can be narrowed, require the head to do that before applying.

38. Advice to divide a request. Where a public body or the Commissioner's Office advises an applicant in writing to divide a request into smaller requests, require the advice to state the interval the body considers reasonable, and provide that requests made in accordance with that advice shall not be relied on as evidence of number or frequency under section 21(1)(a) or (c)(ii).

39. Reconsideration before court. Within the present model, give the applicant ten business days from a disregard notice to ask the Commissioner to reconsider an approval given by delegated officials, at no cost, on the application, the applicant's written response and any reply. Where the Commissioner personally took part in the approval, the reconsideration should be conducted by a person who did not, and the drafter will need to say who. Require a decision within ten business days. Provide that time

under section 52(2) runs from the decision on reconsideration, and that where the approval is set aside the public body shall respond within the time that remained when the disregard notice was given or ten business days, whichever is longer. Provide that no costs be awarded against an applicant on a section 52 appeal from a disregard unless the appeal was brought in bad faith.

40. Make the delegation visible. Section 103 permits the Commissioner to delegate. The published account of the practice concerns section 21; I do not know the practice under section 23. Require that any delegation of the power to decide applications under sections 21 and 23 be made by a published instrument, and that each approval state who decided and whether the Commissioner personally took part.

41. Count it. The Commissioner's annual report already publishes province-wide totals. Amend section 105 to require that, and to require the report to state, by public body, the number of applications received under section 21 and under section 23; the number approved in whole, approved in part, refused and withdrawn; the grounds relied on; the additional business days granted; the number of requests extended more than once; and, once recommendations 2 and 20 are in force, the number of applications on which the applicant responded.

42. The complaint queue. In section 44(7), define "similar or related records" so that complaints against different public bodies about different records are not caught merely because they arise from one event. Set a maximum period for which a complaint may be held in abeyance. State how the 65 business days in section 46(1) apply to a complaint so held. Amend section 52 so that an applicant whose complaint is held in abeyance may elect to withdraw it and appeal directly to the Trial Division, with time running from the election.

43. Let the applicant be heard on an application that is coming. Require an advisory response under section 15 to state whether the head has applied, or intends to apply, under section 21 or section 23. Provide that an applicant may file written representations with the Commissioner on a pending or intended application, and that the Commissioner shall consider any representations received before deciding. For section 23 this is the minimum version of recommendations 3 and 20, and could be enacted even if they are not. For section 21, where the application will usually precede the advisory response, the minimum is a bare written notice to the applicant that the application is being made. Quebec's section 47 requires such a notice within the response period.

44. Give the review an ending. Amend section 117 to require the Minister to table the committee's report in the House of Assembly within a fixed period of receiving it, and to respond in writing, recommendation by recommendation, within a further fixed period, stating whether each is accepted and, if not, why.

45. Treat routine extension as a timeliness question. Require the Commissioner, in deciding an application under section 23, to have regard to the public body's record: how many of its requests in the preceding year were extended, how many more than once, and whether the applicant's earlier requests to it were extended. Require the annual report under section 105(c), which already covers "persistent failures to respond to requests in a timely manner", to name public bodies that extend more than a stated

proportion of their requests. An extension granted is not a failure to respond in time. A public body that rarely responds within twenty business days, because it is always granted more, presents the same problem from the applicant's side, and at present nothing in the Act treats it as one.

46. One subject, one coordinator. Where requests by one applicant to more than one public body concern a single event or programme, allow the applicant to ask the Commissioner to designate one of those bodies to coordinate the searches and the timing, with each head still deciding on its own records and the responses delivered together. Provide that requests coordinated in this way shall not be aggregated for the purposes of section 21 or section 23 (recommendations 28 and 36). As part of the custody statement in recommendations 22 and 23, require a public body that says another body holds the records to confirm that in writing with the other body before answering the applicant.

47. Even out the clocks. Give the Trial Division power to extend the time in section 52(2), as section 42(5) already allows the Commissioner to do for complaints. Require every notice that starts a period running against the applicant to state the last day of that period as a calendar date, as the public body calculates it. A public body's time can be extended more than once on application. Nothing in the Act lets the applicant's fifteen business days to appeal be extended, and it is at best uncertain whether the Court's Rules could.

Robert Kelland

Contact details supplied separately.

ANNEX. THE RECORD

This Annex identifies the requests, dates and documents behind each statement of fact in Parts 1 to 3. Every entry comes from a letter, notice or email that I hold, and copies are available to the Committee on request. Quoted text is verbatim. Where a public body has not stated something, the entry says so. File-number formats are each body's own. No individual is named.

A. The count

All figures are by my count from my own files, as at 20 September 2026.

- **62 requests on file with twelve public bodies**, made between 14 June and 20 September 2026, the last of them on 20 September (section F). A request is counted once for each public body that holds it. Sixty-one were made by me to eleven public bodies. One was created when a public body transferred part of a request to a twelfth body under section 14 (E8). The count excludes requests to federal institutions, a request for correction of personal information, one request made to the Commissioner's Office for its own records, and all complaints and appeals.
- **The twelve bodies:** Forestry, Agriculture and Lands; Justice and Public Safety; Executive Council; Finance; Municipal and Community Affairs; Transportation and Infrastructure; Newfoundland and Labrador Housing Corporation; NL Health Services; the Municipal Assessment Agency; the Public Procurement Agency; the Town of Small Point–Adam's Cove–Blackhead–Broad Cove; and the Office of the Premier (by transfer).
- **19 requests disregarded** in whole (16) or in part (3), in **ten decisions** by five public bodies (section B). 19 of 62 is 31 per cent.
- **12 requests extended** under section 23, by **19 notices** from six public bodies (section C). Six of the twelve extended more than once; one extended three times.
- **3 requests** both disregarded in part and extended (section D). Nineteen plus twelve, less the three counted twice, is 28 of 62.
- **Provincial figures:** "about 3% based on recent statistics, result in an application for approval to disregard a request. Of those 3%, last year about 72% of applications to disregard were approved." Email to me from the Commissioner's Office, 2 July 2026. The Office's Annual Report 2024-2025, at pages 31 and 32, gives 109 applications to disregard (78 approved, 12 partially approved, 15 denied) and 1,102 applications to extend on 721 requests (987 approved, 83 partially approved, 11 denied, 21 withdrawn; 22,030 of 23,467 days requested approved).

B. Section 21: the ten decisions

Ref	Notice (2026)	Public body and file	Scope	Grounds cited	Dates of application and approval, where stated; notes
B1	26 Jun	Executive Council, EC/068/2026	Part	s.21(1)(a), (c) (iii)	Applied 23 Jun (stated by the coordinator, 2 Jul). Approval date not stated. Remainder later extended (C3). Not appealed.

B2	29 Jun	Forestry, Agriculture and Lands, FAL/076/2026	Whole (14 items)	s.21(1)(a), (c) (iii)	Applied 21 Jun (stated by the Commissioner's Office, 3 Jul). On 19 Jun the department had asked whether I would divide the request and submit the items one at a time (H). Notice invited "a new request with a narrower and more specific scope". Not appealed.
B3	29 Jun; reissued 2 Jul	Town of Small Point–Adam's Cove–Blackhead–Broad Cove, PB/824/2026	Whole (9 items)	None stated in the first notice. The Commissioner's Office stated s.21(1)(a), (c) (iii) on 30 Jun	Applied 25 Jun; approval forwarded to the Town 29 Jun (both stated by the Commissioner's Office, 30 Jun). First notice used a refusal template, gave no reasons and told me I could ask the Commissioner to review. Reissued with reasons and the section 52 route on 2 Jul. Not appealed.
B4	8 Jul	Executive Council, EC/071/2026	Whole (12 items)	s.21(1)(a), (c) (iii)	Decision of the Clerk. Dates not stated. No acknowledgement of the request was received before the notice. Not appealed.
B5	10 Jul	Forestry, Agriculture and Lands, FAL/078, 079, 080, 082, 083, 084, 086 and 087/2026	Whole, eight requests, one letter	s.21(1)(a), (c) (iii)	Dates not stated. Requests received between 26 Jun and 3 Jul. FAL/082 was the narrower request filed 30 Jun after the invitation in B2. FAL/083 and FAL/084 had been transferred in from Justice and Public Safety on 3 Jul (E2, E3). Not appealed.
B6	11 Aug	Municipal and Community Affairs, MCA-077-2026	Part (items 3 to 7 of 7)	s.21(1)(a), (c) (iii)	Dates not stated. Department asked me to narrow on 4 Aug, writing that without sufficient narrowing "we may need to consider making an application to the Office of the Information and Privacy Commissioner to disregard the request"; I replied 6 Aug. Remainder later extended (C12). Appealed (J).
B7	18 Aug	Forestry, Agriculture and Lands, FAL/107/2026	Part (items 4 to 11 of 11)	s.21(1)(a), (c) (iii)	Applied 7 Aug; approved 11 Aug (both stated by the coordinator, 19 Aug). Notified five business days after approval. Remainder later extended (C15). Appealed (J).
B8	24 Aug	Forestry, Agriculture and Lands, FAL/110, 111 and 112/2026	Whole, three requests, one letter	s.21(1)(a), (c) (iii)	Applied 14 Aug; Commissioner's response 19 Aug (both stated by the coordinator, 24 Aug). Notified three business days after. Appealed as one application (J).
B9	17 Sep	Forestry, Agriculture and Lands, FAL/0133/2026	Whole (7 items)	s.21(1)(a), (c)(i), (c)(ii), (c)(iii)	Decision of the Deputy Minister. Dates not stated. Reasons: "consideration was given to the number, frequency, scope, and subject matter of the requests that you have submitted to the Department." The notice's quotation of s.21(1) joins (a) and (c) with "and" and omits (b) and (c)(iv). On 10 Sep the coordinator had confirmed the due date in writing. I received no communication about the scope of the request before the notice. Appeal period ends 8 Oct.
B10	17 Sep	Transportation and Infrastructure, TI-0218-2026	Whole (8 items)	s.21(1)(a), (c)(ii)	No decision maker named. Dates not stated. No reasons beyond quotation of the two paragraphs. My second request to this department. Sequence at F. Appeal period ends 8 Oct.

C. Section 23: the nineteen notices

“Not stated” means the notice did not state this. Extensions run from the expiry of the period then applicable. “New deadline given” is the date by which the notice said the public body would respond. The last column says what happened. Position as at 20 September 2026.

Ref	File	Public body	Notified (2026)	Length, as stated in the notice	New deadline given	Reason stated	What happened by the new deadline
C1	JPS/130/2026	Justice and Public Safety	6 Jul	Not stated	10 Sep	Consultation with the RCMP	Replaced. Extended again on 3 Sep (C17)
C2	MCA-064-2026	Municipal and Community Affairs	6 Jul	40 business days	10 Sep	Eight grounds listed, including executive consultation prior to release	Replaced. Extended again on 3 Sep (C18)
C3	EC/068/2026	Executive Council	7 Jul	Not stated	Not stated	Not stated	Final response 27 Jul: no responsive records
C4	FAL/072/2026	Forestry, Agriculture and Lands	14 Jul	20	12 Aug	Not stated	Replaced. Extended again on 12 Aug, the day it fell due (C10)
C5	FAL/073/2026	Forestry, Agriculture and Lands	14 Jul	30	26 Aug	To finalise the record search	Replaced. Extended again on 26 Aug, the day it fell due (C13)
C6	FAL/074/2026	Forestry, Agriculture and Lands	14 Jul	20	12 Aug	Not stated	Met. Answered 3 Aug, with redactions
C7	FAL/075/2026	Forestry, Agriculture and Lands	14 Jul	20	12 Aug	Not stated	Replaced. Extended again on 12 Aug, the day it fell due (C11)
C8	PB/856/2026	Town of Small Point–Adam’s Cove–Blackhead–Broad Cove	22 Jul	21 business days	31 Aug	Clarification needed to determine scope	Replaced. Extended again on 27 Aug (C14)
C9	TI-140-2026	Transportation and Infrastructure	29 Jul	“an additional 60 days”	29 Oct	Not stated. The notice reproduced section 23(2) and nothing further. Advisory response of 20 Jul had indicated a final response by 3 Aug	Not yet due
C10	FAL/072/2026 (second)	Forestry, Agriculture and Lands	12 Aug	25	17 Sep	Record review and “a high volume of active ATIP requests”	Met. Answered 10 Sep, with redactions

C11	FAL/075/2026 (second)	Forestry, Agriculture and Lands	12 Aug	25	17 Sep	Record review and “a high volume of active ATIP requests”	Replaced. Extended a third time on 15 Sep (C19)
C12	MCA-077-2026	Municipal and Community Affairs	21 Aug	Not stated	29 Oct	Not stated	Not yet due
C13	FAL/073/2026 (second)	Forestry, Agriculture and Lands	26 Aug	30 business days	8 Oct	Records “including records collected in relation to your other active requests that overlap with the scope of this request”; “a significant volume of active access to information requests”. Request received 15 Jun; the fifteen business days in s.23(1) closed on or about 7 Jul; department applied 19 Aug; decision received by the department 24 Aug; I was notified 26 Aug, the day the existing deadline expired (dates confirmed by the coordinator, 26 Aug)	Not yet due
C14	PB/856/2026 (second)	Town of Small Point–Adam’s Cove–Blackhead–Broad Cove	27 Aug	Not stated	29 Sep	Retrieval, examination, preparation; “to complete this work without disrupting essential municipal operations”	Not yet due
C15	FAL/107/2026	Forestry, Agriculture and Lands	31 Aug	20 business days	30 Sep	“A thorough search is still being conducted”	Not yet due
C16	FAL/108/2026	Forestry, Agriculture and Lands	31 Aug	20 business days	30 Sep	Records collected; “consultations may also need to be conducted”	Not yet due
C17	JPS/130/2026 (second)	Justice and Public Safety	3 Sep	11 business days	25 Sep	External consultation with the RCMP	Not yet due
C18	MCA-064-2026 (second)	Municipal and Community Affairs	3 Sep	40 business days	6 Nov	Consultations outstanding, sensitivity and complexity, executive review prior to release	Not yet due
C19	FAL/075/2026 (third)	Forestry, Agriculture and Lands	15 Sep	“a final 40 days”	16 Nov	Consultation with another public body and a third party. Request received 15 Jun; 16 Nov is 154 calendar days from receipt	Not yet due

Notified on, or within one business day of, the deadline extended: C4, C5, C6, C7 (notified 14 Jul; the original period expired that day or the next business day, depending on how 13 Jul is counted), C10 and C11 (notified 12 Aug, the day the first extended deadline fell), C13, C15 and C16 (requests due 1 Sep). C14 and C19 were each notified two business days before the deadline. A further notice on PB/855/2026 dated 21 July is excluded from every figure because I do not hold the notice. The same-day comparison in Part 2.2 is between PB/772/2026 (Newfoundland and Labrador Housing Corporation, answered 14 Jul) and FAL/073/2026.

D. Sections 21 and 23 on the same request

- **D1. EC/068/2026.** Part disregarded 26 Jun (B1). Remainder extended 7 Jul by a notice stating neither a length nor a date (C3).
- **D2. MCA-077-2026.** Items 3 to 7 disregarded 11 Aug (B6). Remainder extended 21 Aug to 29 Oct by a notice stating neither a length nor a reason (C12).
- **D3. FAL/107/2026.** Items 4 to 11 disregarded 18 Aug (B7). Remainder extended 31 Aug, the afternoon before it was due, to 30 Sep (C15).

E. Custody: file numbers for the table in Part 2.4

- E1: EC/068/2026. E2: JPS/137/2026, transferred to become FAL/083/2026. E3: JPS/138/2026, transferred to become FAL/084/2026. E4: JPS/127, 128 and 129/2026. E5: JPS/134/2026. E6: FIN-030-2026 (letter misheaded FIN-021-2026). E7: JPS/170/2026. E8: PB/1158/2026, Item 3. E9: PRE/086/2026.
- My complaints about E4, E5, E7, E8 and E9 are before the Commissioner's Office. I do not reproduce anything from those files.

F. The Transportation and Infrastructure sequence (B10)

File numbers are written as they appear in each document.

- 2 Jul: my first request to the department, about the air tanker fleet (TI-140-2026). Extended 29 Jul to 29 Oct (C9).
- 5 Sep: my second request, for contracts and payments relating to the 2025 Conception Bay North wildfires (TI-0218-2026). Received 8 Sep. The request asked that, if any numbered item was considered too broad, the remaining items be processed and the item set aside be identified "so that I can narrow that item alone."
- 9 Sep, department: the overlap is in "the portions of TI-218-2026 seeking records relating to aircraft, water bombers, air tankers and aerial firefighting, including related procurement, contracts, invoices, payments, expenditures and procurement correspondence"; those records "will therefore be provided to you through that request"; proposes one paragraph of replacement wording for the non-aircraft remainder.
- 10 Sep, my reply: I did not withdraw any part; I questioned whether the first request reaches finance records; I offered that overlapping records be collected once under the new file and cross-referenced in the other release; I pointed to the item-by-item term in the request.
- 10 Sep, department: gives examples of the overlap; "We are not asking that TI-218-2026 be withdrawn"; invites alternative wording from me, or confirmation that I will not amend, or a call.

- 11 Sep, my reply: I declined to amend the wording or to propose alternative wording, repeated the collect-once offer, and said I might have time to discuss on the Monday. No call took place and I received nothing further from the department until the notice.
- 17 Sep: notice of disregard of the whole request, s.21(1)(a) and (c)(ii), no reasons.
- 20 Sep: I made a new request to the department using the replacement wording it had proposed on 9 Sep, word for word.

G. Applications and approvals withheld under section 41(c)

- **G1. Executive Council**, on EC/068/2026: “Records related to our application for disregard cannot be shared with you,” and later, “we are not able to release a copy of disregard application if an ATI request were made, this would be denied under the mandatory record class exception”, citing s.41(c), and “I can advise that the application was submitted on June 23, 2026.”
- **G2. The Commissioner’s Office**: refused by email 29 Jun on the ground that it does not disclose such records, and in a formal decision on 3 Jul under s.41(c).
- **G3. Municipal and Community Affairs**, 12 Aug: “you may submit an ATIPP request for those records. However, it is the Department’s position that such information cannot be disclosed pursuant to section 41(c).” My formal request (MCA/085/2026) was refused in full under s.41(c) on 1 Sep. Complaint held in abeyance.
- **G4. Forestry, Agriculture and Lands**: refused by email 30 Jun, 19 Aug and 24 Aug. My formal request for the department’s applications and the Commissioner’s decisions (FAL/0121/2026) was refused in full under s.41(c) on 4 Sep, by decision of the Deputy Minister. Complaint held in abeyance.

H. Written advice to divide requests

- **Forestry, Agriculture and Lands, 19 Jun**: “Given that this request contains 14 items, would you be willing to break it down into individual requests and submit them one at a time over a reasonable timeframe?” **29 Jun** (notice B2): “you may submit a new request with a narrower and more specific scope.” **10 Jul** (notice B5): “We respectfully suggest that you consider submitting a smaller, more focused request, and then submit additional requests as prior requests are completed.”
- **The Commissioner’s Office, 30 Jun**, about B3: “my suggestion would be to break your request down in to several much smaller separate requests, to choose one as a first request, then follow it with the next one after a reasonable period of time, and so on.”
- **Municipal and Community Affairs, 11 Aug** (with notice B6): “You are invited to make a series of narrower requests”.

I. Complaints held in abeyance under section 44(7)

On 14 September 2026 the Commissioner’s Office wrote that I had “now filed complaints regarding 21 access requests with this Office that deal with similar or related records” and listed sixteen complaint files held in abeyance: 0010-068-26-010, 011, 012, 013 and 014 (Newfoundland and Labrador Housing Corporation); 0005-078-26-029 (Executive Council); 0005-066-26-045 and 046 (Finance); 0005-158-26-

005, 008, 009 and 010 (Forestry, Agriculture and Lands); 0025-224-26-002 (the Town); 0005-084-26-160 (Justice and Public Safety); 0005-164-26-002 (Municipal and Community Affairs); 0005-092-26-039 (Office of the Premier). The oldest were received 16 July 2026. Eight public bodies.

J. Appeals under section 52

- Supreme Court of Newfoundland and Labrador, court files 202601G5529 (respondent the Minister of Municipal and Community Affairs, from B6), and 202601G5562 and 202601G5682 (respondent the Minister of Forestry, Agriculture and Lands, from B7 and B8). The appeal from B6 was filed by email on 1 September 2026 and the appeal from B7 on 4 September. Sworn originals for both were delivered, and the appeal from B8 was filed, in person on 15 September 2026.
- Cost to 15 September: \$125 printing, \$365 commissioning of oaths, three filing fees of \$120. Total \$850.
- I state these only as facts. The merits are for the Court.

K. Letters to the Commissioner before a decision

- 16 Sep: on FAL/0125/2026, after the department's section 15 advisory response of 15 Sep said it intended to apply for an extension. Response due 29 Sep.
- 20 Sep: on Transportation and Infrastructure, after the new request described at F.

L. Other sources

- **L1.** PB/855/2026, Town of Small Point–Adam's Cove–Blackhead–Broad Cove. Extended date 17 Aug 2026; response received 19 Aug 2026. Complaint held in abeyance (section I).
- **L2.** Email from the Commissioner's Office, 30 Jun 2026, about B3. The same email contains the statements quoted in Part 2.1 about the deficient notice.
- **L3.** Email from the Commissioner's Office, 2 Jul 2026.
- **L4.** The 21 requests that reached Forestry, Agriculture and Lands between 15 Jun and 8 Sep 2026: FAL/072, 073, 074, 075, 076, 078, 079, 080, 082, 083, 084, 086, 087, 107, 108, 110, 111, 112, 0121, 0125 and 0133 of 2026. Disregarded in whole or in part: 076, 078, 079, 080, 082, 083, 084, 086, 087, 107 (part), 110, 111, 112, 0133. Extended: 072, 073, 074, 075, 107 (remainder), 108. Refused in full under s.41(c) within the twenty business days: 0121. Pending, with a section 15 advisory response stating that an extension will be sought: 0125 (due 29 Sep 2026). FAL/074 was answered on 3 Aug 2026, after one extension. FAL/072 was answered on 10 Sep 2026, after two.
- **L5.** Office of the Information and Privacy Commissioner, Annual Report 2024-2025, "Disregard and Time Extension Applications", pages 31 and 32; *Above Board*, April 2026, "The Information Desk: Applications to Disregard Access Requests". Both are on the Office's website.
- **L6.** Emails from Justice and Public Safety on JPS/130/2026, 6 and 7 Jul 2026, replying to my request of 6 Jul that the items made up of the department's own records be released without waiting for the outside consultation.
- **L7.** My correspondence log, which records each email, letter and call by date, sender and file. As at 20 September 2026 it holds about 600 entries since 14 June 2026 on the provincial access side, counting both what I received and what I sent. It excludes federal requests and correspondence with non-government bodies.