



Professional Municipal Administrators NL Submission to the Review of the Access to Information and Protection of Privacy Act, 2015

Submission Committee

To prepare this submission, PMA surveyed its members and convened a committee of its Board of Directors and members. The committee consisted of:

Jessica Smith, City Clerk, City of Corner Brook (Western Regional Director, PMA)

Connie Reid, Town Manager, Town of Reidville (President, PMA)

Chris Torraville, Town Clerk/Manager, Town of Peterview (Treasurer, PMA)

Rodney Hynes, CAO, Town of Pouch Cove

Vikram Malik, Director of Corporate Services, Town of Happy Valley-Goose Bay

Myrna Goosney, Town Clerk/Manager, Town of Glenburnie-Birchy Head-Shoal Brook (Vice-President, PMA)

Nadine MacAulay, CAO, Town of Happy Valley-Goose Bay (Labrador Director, PMA)

Tammy Davis, Executive Director, PMA

Ashley Sheppard, Communications & Membership Coordinator, PMA

The PMA ATIPPA Review Submission Committee has prepared recommendations in each of the 8 areas listed in the Terms of Reference for the 2025 Legislative Review of the Access to Information and Protection of Privacy Act, 2015 (“ATIPPA, 2015”). We have also compiled our Key Recommendations based on Membership surveys and feedback provided to the PMA Committee.

Introduction

Professional Municipal Administrators NL (PMA) and its members support the principles of transparency, accountability, access to information, and privacy reflected in the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA)* and recognizes that the Act remains a vital component of good governance.

However, the reported experiences of our members indicate the current framework does not always support or reflect the operational realities of many municipalities. This is most evident in, but not limited to, smaller communities with limited staffing and administrative capacity. Municipalities face the same legislative obligations as provincial departments but often lack the resources to meet them.

The experiences of our members also show that requests are becoming more complex; with some requiring searches covering multiple years and potentially upwards of tens of thousands of pages, searches of current and former employee and council email accounts, and extensive review and redaction of sensitive information. As a result, the number of requests alone is not an adequate measurement of the time and resources required to administer the legislation.

Over the past several years, municipalities have experienced an increase in the volume, frequency, and complexity of ATIPPA requests. In some cases, the demands associated with responding to multiple, lengthy, or overlapping requests have become so significant that they effectively consume the capacity of municipal offices to carry out their regular responsibilities. Staff are required to divert substantial time and resources away from core municipal functions to locate, review, redact, and prepare records for disclosure. For smaller municipalities, where there may be only one or two staff responsible for a wide range of essential functions, sustained ATIPPA activity can significantly disrupt day-to-day operations and, in extreme cases, effectively bring normal municipal operations to a standstill.

ATIPPA is an important tool for transparency and accountability and should remain so. However, the legislation must also recognize that the right of access cannot operate in a way that permits the ongoing or excessive use of requests to overwhelm the limited administrative capacity of a municipal office. Municipalities need reasonable safeguards to manage requests that are excessively broad, repetitive, overlapping, or otherwise place an unreasonable burden on operations while still protecting legitimate public access to information.

The privacy requirements of the Act present similar challenges. Municipalities hold significant amounts of personal information but often have limited access to dedicated privacy staff, modern records management systems, cybersecurity expertise, and appropriate technical controls. When a privacy breach occurs, staff may spend significant time investigating, documenting, containing, and resolving the breach while also being required to continue their regular municipal responsibilities.

Following are the specific recommendations from the Professional Municipal Administrators NL; on behalf of the Committee established and our Membership based on the Mandate of the Legislative Review to conduct a comprehensive review of the provisions and operation of ATIPPA, 2015.

1. Review of the 2020 Recommendations

The review should assess the implementation and continued relevance of the 2020 Statutory Review recommendations and consider whether changes in request volumes, technology, cybersecurity, and municipal experience require those recommendations be revised or expanded.

2. Access to Information Provisions

Timelines: Section 16

The current 20-business-day response period can be difficult for municipalities with limited staffing, particularly where requests involve large volumes of records, multiple departments, extensive severing, third-party consultation, or legal review.

Consideration should be given to the creation of:

- longer or more flexible default response periods for municipalities;
- streamlined extension procedures;
- staged responses for exceptionally large or complex requests; and
- recognition of the staffing capacity and cumulative workload of the majority of municipalities in our Province due to the size and administrative capacity of the communities.

Definition of Business Day: Section 2(b)

The definition of “business day” should better reflect municipal operating realities, including local holidays and municipalities with limited or non-standard office schedules. Absences of the ATIPP Coordinator/designate need to be taken into consideration (annual leave, sick leave, bereavement, conferences, etc.) as some of these cannot be cancelled or changed due to an ATIPP request and it should not be expected that it would have to be or that there is someone else available to do so.

Disregard Applications: Section 21

The five-day period for applying to disregard a request can be insufficient for a municipality to accurately assess its scope, impact, and whether the statutory criteria have been met.

The 2025 Legislative Review should consider:

- extending the period for a public body to apply for a disregard;
- suspending the response period while a disregard application is being considered;
- clearer criteria for frivolous, vexatious, repetitive, systematic, excessively broad, or otherwise unreasonable requests;
- consideration of the cumulative impact of multiple requests;
- consideration of the size, staffing, and operational capacity of the public body; and
- alternatives to complete disregard, including narrowing, consolidation, staging, or sequential processing.

Multiple and Concurrent Requests

Municipalities require a practical mechanism to manage multiple significant or exceptionally complex requests received at the same time.

Consideration should be given through the 2025 Legislative Review to allowing public bodies, subject to appropriate safeguards and oversight, to:

- consolidate related requests;
- process significant requests sequentially;
- queue additional requests where simultaneous processing would unreasonably interfere with operations; and
- establish reasonable limits on the number of significant requests actively being processed at one time.

Any such mechanism should protect legitimate access rights and should not be based solely on an applicant's identity, relationship to another applicant, or the subject matter of a request.

Fees and Cost Recovery

The fee structure should be reviewed during the 2025 Legislative Review to determine whether reasonable cost recovery is appropriate for unusually large or resource-intensive requests.

Potential measures could include:

- Fees should reflect the actual staff time required beyond eight hours per processing a request. Municipalities may incur significant overtime costs to meet ATIPP timelines, particularly for complex or high-volume requests, as well as additional costs to address essential work that is delayed or displaced while staff are processing the request.
- deposits for exceptionally large requests;
- reasonable recovery of extraordinary processing costs; and
- safeguards for individuals seeking their own information, financial hardship, and matters involving a genuine public interest.

Ordinary access requests should continue to remain accessible.

Publicly Available Information

A clearer mechanism should allow municipalities to direct applicants to records that are already publicly available through municipal websites, council minutes, budgets, financial statements, or other established public sources without requiring the same information to be processed through a formal ATIPP request.

Municipal Legislative Framework

Consideration should be given to whether municipalities require legislation or provisions specifically addressing municipal circumstances, including staffing capacity, timelines, fees, complex requests, and administrative requirements.

A separate municipal framework could be considered during the 2025 Legislative Review, or municipal-specific provisions could be incorporated into ATIPPA. Ontario's Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) is one example. MFIPPA is Ontario's local government equivalent of Newfoundland and Labrador's ATIPPA, except that it specifically covers municipal institutions such as municipalities, cities, towns, school boards, police services and many other local government entities.

3. Privacy Safeguards and Emerging Technologies

Municipalities face increasing risks associated with cybersecurity threats, ransomware, artificial intelligence, and other emerging technologies.

Smaller municipalities, due to the nature of their size and budgetary restrictions often lack staffing, technical expertise, financial resources, and governance frameworks necessary to respond effectively to these risks.

To meet the requirements of the legislation as it currently stands, and any anticipated updates, the Provincial Government should consider providing:

- dedicated funding or financial assistance;
- technical and cybersecurity support;
- shared municipal resources and expertise;
- practical guidance on emerging technologies that can support the processing of requests, including AI; and
- standardized tools and frameworks appropriate to municipal operations.

4. Personal Information Protection

Municipalities manage large volumes of personal and sensitive information, often using outdated or limited information-management systems.

The review should consider enhanced municipal guidance, training, records-management resources, privacy frameworks, and security standards that are proportionate to the size and capacity of individual municipalities.

Additional information safeguarding guidance should also address the evolving collection, use, storage, and sharing of personal and sensitive information.

5. Privacy Breach Management

Municipalities require practical and proportionate requirements for preventing, investigating, containing, documenting, reporting, and responding to privacy breaches.

Municipal experience demonstrates that even individual breaches can require significant staff time to investigate and resolve. The Provincial Government should consider providing municipalities with standardized breach-response tools, training, technical assistance, and access to specialized expertise.

6. Public Body Practice and Accountability

Municipalities by and large do not have dedicated ATIPP or privacy personnel and may have limited or outdated records-management systems.

Recommended supports from the Provincial Government include:

- standardized municipal guidance, templates, and procedures;
- regular municipal-specific training;
- practical assistance with complex requests and privacy matters;
- improved records-management resources;
- cybersecurity and privacy support; and
- regional or shared-service models for municipalities unable to support dedicated staff.

Regional arrangements could allow municipalities to jointly access ATIPP, privacy, records-management, and cybersecurity expertise. Provincial support may be necessary to make such models financially viable for smaller communities.

7. Public and Public Body Experience

The administrative impact of ATIPPA must be measured by more than just the number of requests received.

A single request may involve thousands of records, multiple departments, extensive email searches, significant severing, legal advice, or consultation with third parties. Conversely, other requests may require relatively little staff time.

Improved statistical reporting should therefore consider capturing:

- number and complexity of requests;
- volume of records reviewed;
- staff hours and processing time;
- overtime costs;
- legal and consultant costs;
- extensions and disregard applications; and
- OIPC reviews and complaints.

This information would provide a more accurate picture of the resources required to administer ATIPPA across the municipal sector.

8. Schedule A Review

Schedule A should be reviewed by OCIO to confirm that listed public bodies and entities remain appropriate, necessary, and current.

Key Recommendations

Professional Municipal Administrators NL recommends that the following recommendations be considered by the ATIPPA Legislative Review Committee:

1. **Recognition of municipal capacity** and the significant differences between municipal and provincial resources.
2. **Provision of more flexible timelines** and streamlined extension procedures for municipalities.
3. **Extension of the five-day section 21 period** and providing a practical process for managing disregard applications.
4. **Clarification of criteria** for frivolous, vexatious, repetitive, systematic, excessively broad, or unreasonable requests.
5. **Provision of mechanisms to consolidate, queue, stage, or sequentially process multiple significant requests.**
6. **Review of fees and cost recovery** for exceptionally large or resource-intensive requests.
7. **Establishment of a practical process for publicly available information.**
8. **Consideration of municipal-specific legislation or provisions** that recognize municipal operating realities.
9. **Provision of provincial support** for privacy, cybersecurity, records management, training, and regional/shared-service models.
10. **Improvement of statistical reporting** to measure the actual administrative and budgetary impact of ATIPPA.

Conclusion

Professional Municipal Administrators NL and its members support the objectives and principles of ATIPPA and recognize the importance of transparency, accountability, and privacy.

The concerns and recommendations raised are not central to the principle of public access. Rather they are connected to the experiences of municipal administrators with the current framework; and recognition that it does not always account for the significant differences in staffing, resources, technology, and administrative capacity between municipalities and provincial departments.

The legislative review provides an opportunity to establish a more practical and sustainable framework; one that maintains meaningful access to information and strong privacy protections while recognizing municipal capacity and protecting public resources.

A combination of legislative flexibility, clearer processes, appropriate cost mechanisms, improved data collection, and provincial support would assist municipalities in meeting their obligations while continuing to provide effective public access and privacy protection.