

October 8, 2026

Access to Information and Protection of Privacy Statutory Review 2025
Keri-Lynn Power, LLB (Hons), LLM, Committee Chair

Sent via email: ATIPPARreview@gov.nl.ca

Dear Review Committee,

Re: City of St. John's Submission - Access to Information and Protection of Privacy Statutory Review 2025

The City of St. John's appreciates the opportunity to provide input on the statutory review of the Access to Information and Protection of Privacy Act, 2015 (the Act). As a local government body responsible for delivering a broad range of municipal services, the City recognizes the importance of maintaining a legislative framework that promotes transparency, accountability, and the protection of personal information. The City remains committed to upholding these principles while ensuring that its obligations under the Act can be administered effectively and efficiently.

The City previously participated in the 2020 statutory review and welcomes the opportunity to revisit the recommendations arising from that process. The enclosed submissions expand upon the City's previous recommendations and address additional considerations arising from its experience administering the legislation, as well as developments in relevant jurisprudence, and decisions of the Office of the Information and Privacy Commissioner. We recognize the importance of this review and the Committee's efforts to ensure the legislation continues to promote transparency, accountability, and personal information protection amid evolving technology and privacy considerations. It is our position that a legislative framework which provides greater clarity and appropriate procedural flexibility will better support public bodies in fulfilling these obligations while preserving the fundamental purposes of the Act.

Our recommendations are informed by its practical experience administering the Act and reflect areas where legislative clarification or amendment may assist public bodies in meeting their obligations. In bringing forward these recommendations, the City seeks to contribute to a legislative framework that is clear, consistent, and responsive to the operational realities of public bodies, while continuing to uphold the access and privacy rights of individuals.

The City respectfully requests that the Committee consider the enclosed submissions and recommendations as part of its review. We appreciate the Committee's work in undertaking this

important process and welcome the opportunity to provide further information or clarification, should it be required.

Sincerely,

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City of St. John's
Submission to the Access to Information and Protection of Privacy Act, 2015
Statutory Review Committee 2025

October 8, 2026

Submitted to: Keri-Lynn Power, LLB (Hons), LLM
ATIPPA, 2015 Statutory Review Committee 2025

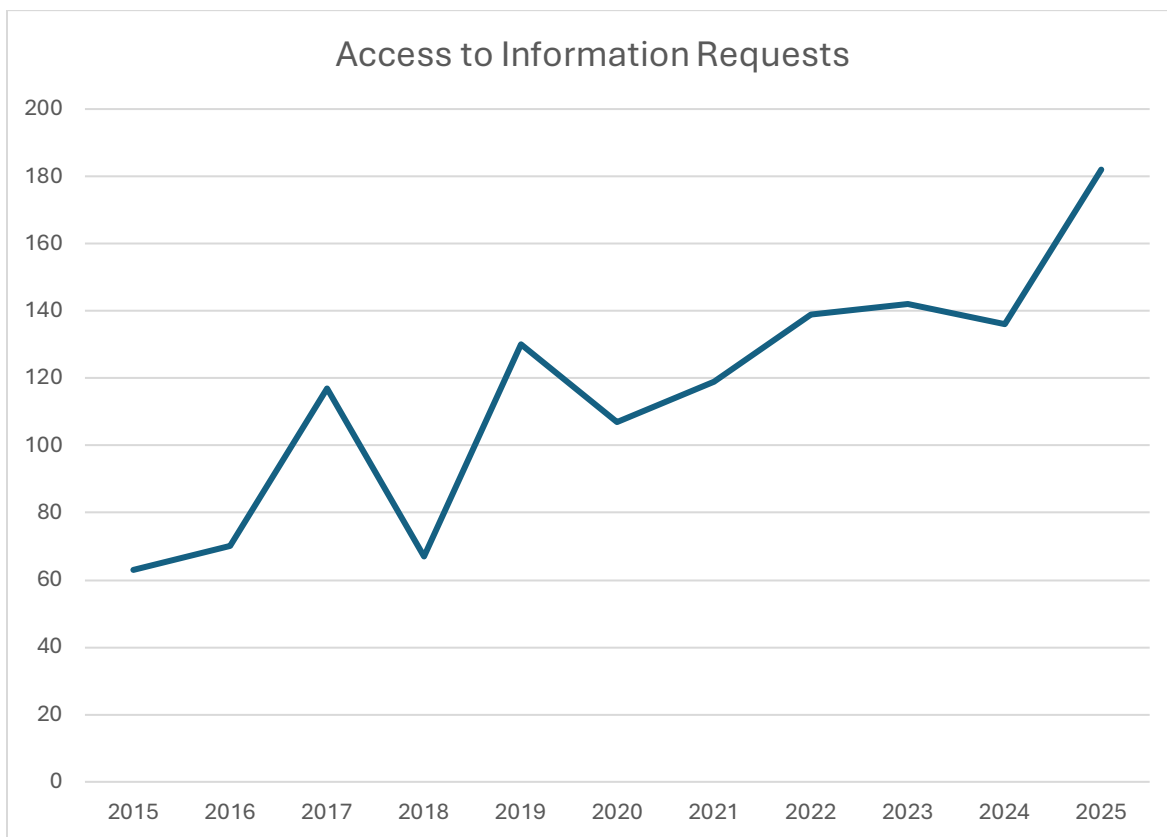
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Access and Privacy at the City of St. John's

The City of St. John's ("City") is a statutory corporation continued under the City of St. John's Act RSNL 1990 c. C-17., as amended. It is defined as a local government body pursuant to s. 2(o), and as a public body under s. 2(x)(iv) of the Access to Information and Protection of Privacy Act, 2015 SNL 2015 c. A-1.2., ("Act") as amended.

As a public body, the City receives access to information requests, the number of which has significantly increased since 2015:



This year is outpacing 2025 and the volume and complexity of requests is expected to continue to increase.

The City has two (2) full-time Access and Privacy Analysts operating under the general Office of the City Manager and reporting directly to the Office of the City Solicitor. While reporting to the City Solicitor, the Analysts operate independently from the Legal

Department, receiving access requests, gathering relevant documentation from City departments, and replying to applicants directly.

As required, Analysts may seek legal counsel in responding to access complaints and any matters that proceed to the Supreme Court, General Division are addressed by Legal Counsel.

The Access and Privacy Analysts have developed and facilitated access and privacy training for all City employees. The training is updated as needed with developments and policy materials from the OIPC or relevant jurisprudence. Access and privacy training is also provided to Members of City Council when elected, with refresher courses as required.

To further promote and foster access and privacy compliance, the City adopted its Privacy Management Policy in 2019. In keeping with the OIPC's Privacy Management Program guidance, the policy and procedures include multiple program controls: breach reporting, privacy impact assessments, information sharing agreements, and training requirements. Personal information collection points have been reviewed, and privacy notices have been added to all. In addition, privacy compliance is integrated into new projects through the City's Project Review Committee.

When the Municipal Conduct Act SNL 2021 c. M-20.01., and Regulations came into force, the Analysts were involved in reviewing and providing guidance on this act for the creation of the Councillor Code of Conduct By-Law and the Municipal Official Code of Conduct By-Law.

2020 Statutory Review

The City participated in and provided submissions for the 2020 Statutory Review (“2020 Review”) completed by the Honourable David B. Orsborn.

Unfortunately, none of the recommendations made by Justice Orsborn were considered or adopted by the Province since the 2020 Review report was filed. Since that time there have been significant developments within various sections of the Act, including, but not limited to, Division 2: Exceptions to Access sections 30, Legal advice and s. 33 Information from a workplace investigation.

A: Time Limits and Extensions

The Act sets time limits for public bodies to respond to access requests. Section 16 stipulates that a public body shall respond to a request without delay, and in any event no more than 20 business days from receipt of a request. Failure by a public body to respond within 20 business days is considered a refusal under 16(2).

A public body may seek an extension to time upon request to the OIPC:

23. (1) The head of a public body may, not later than 15 business days after receiving a request, apply to the commissioner to extend the time for responding to the request.

(2) The commissioner may approve an application for an extension of time 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.

(3) The commissioner shall, without delay and not later than 3 business days after receiving an application, decide to approve or disapprove the application.

(4) The time to make an application and receive a decision from the commissioner does not suspend the period of time referred to in subsection 16 (1).

(5) Where the commissioner does not approve the application, the head of the public body shall respond to the request under subsection 16 (1) without delay and in any event not later than 20 business days after receiving the request.

(6) Where the commissioner approves the application and the time limit for responding is extended, the head of the public body shall, without delay, notify the applicant in writing

(a) of the reason for the extension;

(b) that the commissioner has authorized the extension; and

(c) when a response can be expected.

The extension provision of the Act is noteworthy in a few ways:

- there are no set grounds for allowing or denying an extension request, other than the Commissioner considers that the request is necessary and reasonable to make in the circumstances; and
- a public body may apply for an extension up to 15 business days after receiving a request, but a request for an extension does not pause the 20-business day requirement to respond.

The 2020 Review noted that most other Canadian jurisdictions allow a public body the authority for an initial extension of time to respond, with any further extensions subject to approval by the oversight body (page 75).

Despite the OIPC not being supportive of a public body being able on its own authority to extend a response time limit, the 2020 Review recommended to amend the Act to allow the head of a public body to approve an extension of up to 10 business days based on a written recommendation from the Coordinator. The OIPC must be informed of the extension by the public body. Though the public body would only be able to use this extension in specified circumstances such as a request involving a large volume of records or the need to consult

on exceptions to disclosure, the City views this recommendation positively and suggests that this Committee maintain it.

As expected, the City has seen an increase year over year of more detailed and expansive access requests. Naturally, expansive requests require additional time to not only gather the responsive records, but to also review and redact citing appropriate sections of the Act as necessary.

Upon receipt of a new access request, the City's Access and Privacy Analysts will notify the applicant of receipt and forward the request (applicant information withheld) to the various departments within the City who may have custody and control of responsive records. The Analysts may also conduct an internal email search to locate responsive records.

Especially when a request appears broad, correspondence searches are done as soon as possible (typically within 5 business days) to try and get an understanding of the breadth of responsive records.

Correspondence searches and replies from various departments take time, during which the limit imposed under s. 16 continues to run. City Analysts may not know that an extension is required due to the number of responsive records until close to or after the 15-business day deadline. This is through no fault of their own. An ability to extend the time limit for a response in these circumstances is not only fair, but an efficient way to address the request for information. If the extension can be agreed to with the applicant as set out in the 2020 Review (page 80), this should also be encouraged.

The City takes exception to the suggestion made by the OIPC that "...jurisdictions where public bodies can extend their own time limits(,) tend to see the development of a lax culture around timeliness of access to information requests" (2020 Review, page 79).

Submissions made by other public body Coordinators in 2020 disputed this. It is disappointing that the OIPC would suggest that public bodies may develop a lax culture when permitted to extend response deadlines, as this does not accurately reflect the reality of other public bodies in the province.

A public body cannot address workload pressures simply by extending time limits. The City of St. John's Analysts manage multiple access requests at once. Extending timelines would only postpone the same workload as new requests continue to be submitted. This would certainly be the case if, as the OIPC suggests, public bodies would extend *all* time limits "...the extended time invariably becomes the new time limit." (2020 Review, page 79). The reality is that the ability to set an extension, be it 10 business days or otherwise, will only be used when necessary, and in the interim, other requests for information will continue to be answered within the 20-business day timeframe set out in the Act.

To illustrate, in 2025 when 182 access requests were received, the City sought seven necessary extensions from the OIPC. Two of these were for the same request, meaning only six requests' response times were affected by an extension to the timeline.

While those requests were being processed, City Analysts responded to 62 other requests which did not require extensions, shown in the table below:

Request File Number	Time Limit Extension(s)	Total 2025 requests closed during extended file timelines
PB 018 2025	5 business days	62
PB 367 2025	15 business days and 5 business days	
PB 813 2025	10 business days	
PB 1081 2025	20 business days	
PB 1144 2025	15 business days	
PB 1588 2025	10 business days	
*PB 1588 2025 was the last request received in 2025, as such no other requests were responded to in that calendar year. However, five requests were closed during 2026 during the same timeline.		

Similarly in 2024 when the City received 136 access requests, the City sought eight necessary extensions. While those requests were being processed, 72 others were responded to and closed:

Request File Number	Time Limit Extension(s)	Total 2024 requests closed during extended file timelines
PB 187 2024	5 business days	72
PB 204 2024	20 business days	
PB 758 2024	15 business days	
PB 957 2024	15 business days	
PB 1258 2024	20 business days	
PB 1658 2024	20 business days and 35 business days	
PB 1714 2024	30 business days	

In each year, under 6% of the City’s access requests are affected by a timeline extension. Contrary to the position suggested by the OIPC in 2020, extensions are only sought in those instances where they are necessary. The suggestion that all responses would naturally be extended to 30 business days is unrealistic and does not help public body staff address responses in a timely manner. The demands, complexity of requests, and the amount of material to be reviewed remain the same if every file is delayed. As stated in the 2020 Review, “delaying a file does not change the amount of work” (page 79).

From the City’s perspective, allowing the head of a public body to grant an initial 10-business-day extension in appropriate circumstances would be more efficient and timelier for both the public body and the OIPC. It would reduce the number of extension requests the Commissioner must review and respond to within three business days, while giving Coordinators the flexibility needed to better manage their workload. In most cases, seeking approval directly from the head of the public body would be faster than waiting up to three

business days for a response from the OIPC. With a requirement to inform the Commissioner if an initial extension is used by a public body, the OIPC will be kept up to date on extensions and will be able to question the public body if it is of the opinion that extensions are being granted inappropriately, protecting the level of oversight established in the Act.

Recommendation: The City submits that the recommendation from the 2020 Review to amend the Act to allow a public body to approve an extension of up to 10 business days unilaterally, or with agreement with an applicant, should remain and form part of the final recommendations by this Committee.

B: Disregards

Similar to Time Limits and Extensions, under the current wording of the Act a public body may apply to the OIPC to disregard an access request, but doing so does not stop the 20-business day time limit. If a public body seeks a disregard, it must do so within 5 business days after receiving an access request. See s. 21 of the Act.

The 2020 Review recommended that the ability to seek a disregard be increased to 10 business days, and to pause the time limit while the request is being reviewed by the Commissioner. The City agrees with these recommendations and submits they should remain one of the recommendations made by this Committee.

The 2020 Review also recommended that the head of a public body may approve disregard applications where the requests seek information that is otherwise accessible by anyone, and requests from unidentifiable applicants. In either instance, the Commissioner must be notified. The City also agrees with these recommendations.

The ability to seek a disregard remains tied to the date the request is received. In the City's experience, while the additional 5 business days would be beneficial in most cases, in exceptional ones the Access and Privacy Analysts may not know that a disregard ought to be considered until the time limit is close to or has expired. In these situations, a disregard could be sought under s. 21(1)(c)(iii), the request would amount to an abuse of the right to make a request because it is excessively broad or incomprehensible; however, excessive broadness may not be known until responsive records are provided.

The City experience also includes instances where though the wording of the request may not seem overly broad initially, the responsive records may be. At that stage, following the guidance from the OIPC, the Analyst would try and narrow the scope; however, by that point, the opportunity to seek a disregard may have already expired, limiting the Analyst's ability to respond appropriately to requests whose excessive breath only becomes evident during the records review process.

The OIPC in its guidance document for disregards states the following:

The term “excessively broad” is meant to capture a single ATIPP request that is excessively broad in scope. Prior to seeking approval to disregard on this ground, ATIPP Coordinators must attempt to narrow the scope of a request by discussing with applicants that the volume of records involved in fulfilling a request is more than the public body can handle, and engaging in a good faith discussion to help determine whether a more specifically worded request would capture the information being sought, or whether the request could be limited to certain locations where records may be found, certain employees who may have such records, or certain time periods. This is in keeping with the public body’s duty to assist. Bear in mind that a request for a large amount of records is not necessarily excessively broad if it is clear and specific enough to allow the records to be identified and located. A request is more likely to be considered excessively broad if, in addition to being a request for a large amount of records, the wording is overly broad and too general in scope, such that identifying particular responsive records becomes difficult if not impossible. (emphasis added)

There will be instances where a request for information will be excessively broad on its face which can be addressed as suggested by the OIPC. But there will also be instances where the broadness of a request cannot be fully ascertained until after responsive records have been provided. A public body should not lose the opportunity to seek an appropriate disregard due to not having a complete picture of a request until after records are gathered and reviewed.

The City suggests that the Committee consider an amendment to section 21 to allow a public body to apply for a disregard after 10 business days have passed when it can demonstrate to the Commissioner that earlier steps would not have revealed that a request was excessively broad.

The Commissioner would have the discretion to consider a disregard after 10 days if the public body can show:

- it took all appropriate and timely steps to action the request and why it was not considered to be excessively broad at that time;
- when the public body received the records and why the review demonstrates that the request is excessively broad;
- attempts to address the request with the applicant to narrow the request upon determining that it is excessively broad; and
- reasons why those attempts were unsuccessful and setting out the usual reasons why the public body feels the request is an abuse of that right.

The City submits this retains the current process whereby any disregard must be applied for and approved by the OIPC. The City is not advocating for a public body to have the discretion to disregard beyond that which was set out in the 2020 Review but suggests that in limited circumstances if a public body can demonstrate that a request is excessively broad, an application to the OIPC could be made beyond the 10-business day limit from receipt of the request. To ensure that public bodies are not prejudiced by this process, the time limit for responding to the request should be paused while the OIPC reviews the application for a disregard.

Recommendation: The City submits that the recommendations made in the 2020 Review should be implemented, and that this Committee recommend amending section 21 of the Act to allow a public body to apply for a disregard beyond 10 business days of the receipt of a request at the discretion of the OIPC.

C: Local Public Body Confidences

Under the City of St. John's Act ("City Act"), the City is governed by its board known as The St. John's Municipal Council (section 5). City Council consists of the Mayor, Deputy Mayor, 5 ward councillors and 4 councillors-at-large.

The City Act requires that meetings of Council be held in public "...unless a meeting is called as a special or privileged meeting..." under section 38. Special or privileged meetings are held in the absence of the public. Minutes of special meetings are not available to the public under section 41, subject to Council's discretion to allow viewing of minutes for historic or academic reasons prior to 1925.

Section 28(1)(c) of the Act provides an exception to access for the substance of deliberations of privileged or special meetings.

Though the City Act provides for a blanket exemption to special City Council minutes, the OIPC recently recommended the City provide portions of special minutes which are not the substance of deliberations.

From Report A-2025-016:

[14] In reviewing the pages withheld under section 28, most of the information does fall under this exception. This is a discretionary exception, however, as it was discussed in recent Reports A-2024-049 and A-2024-052 , it can only be applied to information that would reveal the substance of deliberations of privileged meetings. In this case, the City has broadly applied section 28(1)(c) to withhold the entirety of the agenda, minutes and attachments of the July 24, 2017 Special Meetings of Council in which material responsive to the Complainant's request can be found, including items that are clearly not the substance of deliberations such as information about the type of meeting, date, who was present, and similar information...

[15] As stated in A-2024-052, once the City identified the records as responsive to the request, and further identified information in the record subject to an exception

to access, the City was bound by section 8(2) to release the remainder of the record. This is especially true where the exception the City is relying on depends on certain procedural practices to be effective. Those parts of the minutes detailing how the meeting was called and who was present are relevant to establishing that it was a privileged meeting and thereby allowing other information in the record to be withheld. (emphasis added)

As part of the requirements under the Municipal Conduct Act, the City developed codes of conduct for both Council as well as employees. The Councillor Code of Conduct By-Law lists the subject matter for which Council may hold a special meeting:

90. Special Meetings of Council may be held if the subject matter being considered relates to, or is one or more of, the following:

(a) policy advice or recommendations concerning a matter that is in its preliminary stages and respecting which discussions in public could prejudice Council's ability to carry out its activities or negotiations;

(b) legal advice and opinions provided to the City, information that is subject to settlement privilege, solicitor and client privilege or litigation privilege of the City, or information of a Person other than the City that is subject to solicitor and client privilege or any privilege;

(c) information harmful to public security or law enforcement matters;

(d) information from any workplace investigation;

(e) information harmful to intergovernmental relations;

(f) information harmful to the financial or economic interests of the City or an Affiliated Entity;

(g) information related to the City as an employer, including personnel or labour relations matters or collective bargaining or collective agreements;

(h) information harmful to personal privacy, including personal matters about an identifiable individual;

(i) information related to the acquisition, sale, lease, and security of Municipal property;

(j) litigation or potential litigation affecting the City or Affiliated Entities;

(k) contract negotiations of the City or Affiliated Entities;

(l) education or training of Councillors; and

(m) matters pertaining to one of the Exceptions to Access in Division 2 of ATIPPA.

The City proactively discloses the minutes of Regular Council meetings and most committee meetings on its website. However, the minutes of some committee meetings, particularly those involving sensitive or personal information, may be withheld or disclosed only after the matter has been considered at a Regular Council meeting.

Committee meetings are conducted in a similar manner to Council meetings, with an agenda, attendance, and adoption of minutes. Matters are discussed and may be voted on if necessary. These committees may also specifically enter into in-camera sessions where confidentiality is required.

Committees established by the City address numerous issues such as development and affordable housing, where personal information of applicants may be reviewed, or development plans which are still in the early stages. Premature disclosure of a proposal or project is an exception to disclosure under s. 35(1)(d) of the Act.

From Report A-2021-035:

[11] This exception addresses premature disclosure or significant loss or gain to a third party and, therefore, a public body only has to demonstrate that one or the other applies. In this case, the Department only needs to establish that the information satisfies the first part of the sentence under subsection 35(1)(d). That is,

that the information in question, if disclosed, “could reasonably be expected to result in the premature disclosure of a proposal or project.”

[12] The information sought here is on its face about an ongoing project. Disclosure would reveal the parties who have made submissions, the contents of their submissions, and the particulars of the project as outlined by the Department. Previous reports of this Office have noted that where the information in question is about an ongoing project or matter, the early release of such information could reasonably be expected to result in the premature disclosure of a proposal or project – see, for example, A-2019-002 and A-2017-015 – and we find the same here.

The 2020 Review considered s. 28(1)(c) of the Act and determined that the intent was clearly to exempt the substance of deliberations of a privileged meeting regardless of whether it is a Council or committee meeting (page 109). Confidential issues raised in some committee meetings should remain exempt from disclosure until discussed and voted on by Council at a Regular Meeting. This approach would maintain the commitment to transparency while preserving the confidentiality necessary to support effective decision making.

Recommendation: The City suggests that s. 28 of the Act be amended to specifically include privileged meetings of municipal council committees having the same exceptions to disclosure as privileged meetings of Council as set out in the 2020 Review.

D: Workplace Investigations

Section 33 of the Act is intended to protect information generated as part of a workplace investigation. It describes what information can be provided to a “party” defined as a complainant, respondent or witness, and that a public body “...shall refuse to disclose...” information to an applicant who is not a party.

In the 2020 Review, all submissions filed sought amendments to the section. The Honourable David B. Orsborn ultimately suggested 5 amendments to the Act (see page 150):

- *Extend the definition of “workplace investigation” to include others holding a position within a public body;*
- *Provide a mandatory exception to access for all relevant information created or gathered for the purpose of a workplace investigation, but allow discretionary disclosure of the final report of a workplace investigation to a complainant or respondent, or otherwise where in the public interest.*
- *Require the head of a public body to disclose to an applicant a statement provided by the applicant for the purpose of a workplace investigation.*
- ...
- *Allow the head of a public body to refuse access to information relating to workplace conduct provided in confidence, including opinions about another individual.*

The City submits that section 33 still has relevance within the Act, and the recommendations made should remain a consideration by this Committee. However, there have been developments since the 2020 Review which are relevant to this section.

(i) Judicial Developments since 2020 Review

Recent jurisprudence from NL Courts has determined that other sections in the Act may have an impact on the level of information provided from a workplace investigation, even to a defined party.

In Lewisporte (Town) v Newfoundland and Labrador (Information and Privacy Commissioner), [2022] NJ No 217, 2022 NLSC 130, the Supreme Court, General Division addressed an application to not comply with an OIPC recommendation to release records related to a workplace investigation of a former town employee, who was the applicant. The Court considered privilege and s. 37 of the Act, neither of which were established in the circumstances. The Court then considered whether section 40, disclosure harmful to personal privacy could apply to information from a workplace investigation:

73 There is nothing in the wording of ATIPPA to signal that mandatory disclosure pursuant to s. 33(3) is paramount to mandatory refusal of disclosure pursuant to s. 40(1)...

74 ...The goal of facilitating democracy by ensuring that citizens have access to information, particularly personal information about themselves, is not more important than the goal of facilitating democracy by protecting the privacy of individuals with respect to personal information about themselves held and used by public bodies. To put it another way, the objects of ATIPPA do not place the interests of the employee in the fruits of the workplace investigation over those of a third party who participated in the investigation.

75 Different provisions that deal with the same facts do not necessarily conflict. For the purposes of statutory interpretation, conflict is defined narrowly. Overlapping provisions will be given effect according to their terms, unless they "cannot stand together" (Reference re Broadcasting Regulatory Policy CRTC 2010-167 and Broadcasting Order CRTC 2010-168, 2012 SCC 68, at para. 41).

76 Here, it is possible for both ss. 33 and 40 to operate together. The employee can have access to the Report and the Town can refuse access to personal information disclosure of which would be unreasonable invasion of a third party's personal privacy. To the extent that particular information falls in both categories, s. 8(2) contemplates that if it is reasonable to sever exempted information from a disclosable record, an applicant has a right of access to the remainder of the record.

The decision of the Court that section 40 could limit disclosure of information under s. 33 as an unreasonable invasion of privacy resulted in the OIPC recommending that a complete report be withheld. See Report A-2023-021 wherein then Commissioner Harvey opined:

[59] In some previous cases that have come before this Office, applying the interpretation set out by the College of the North Atlantic and Lewisporte decisions has in fact resulted in the disclosure of a great deal of information. By contrast, in the present case, the result has been that section 33(3) has been rendered essentially meaningless. The different treatment of the workplace investigation in the present case, and that in Lewisporte can only be explained by differences in how the two reports were drafted, with the structure and format of the report in Lewisporte allowing the Town to redact sufficient personal information while leaving the remainder of the report intelligible.

[60] It is absurd and troubling that the consistent application of an interpretation of the statute should lead to such inconsistent results. This case illustrates the paradoxical situation in which we find ourselves at this moment. Clearly, it was the intent of the legislature in 2012 to create a mandatory right of access for the parties to a workplace investigation but a mandatory exception for everyone else. But, following the decisions referenced here, section 33 has proven to operate only partially or, as in this instance, not at all. The intended right of access within section 33 has been entirely overridden by the privacy provisions, because the Act does not provide a guide on how to resolve the interplay between sections 33 and 40, beyond the generic balancing provision within section 40(5) that applies to all forms of personal information.

...

[64] The result in the present case will be particularly disheartening to the workplace complainant who, at the time that he embarked on the process of making the

complaint, felt assured that he would have the right to obtain the entire results of the investigation under the then-accepted interpretation of section 33 the Act.

[65] These unsatisfactory results highlight the flaws in the relationship between two different provisions of the Act. The courts have endeavored to reconcile the apparent conflict, but the courts can only interpret the statute as it is written. Legislative intervention will likely be necessary to clarify the interpretation issues and resolve the conflict.

The City recognizes that in some instances there may be concerns with parties to a workplace investigation not being able to obtain the information needed to respond to a complaint. However, this is a procedural fairness matter and was considered by Justice Orsborn in the 2020 Review to not be helpful in the context of considering amendments to ATIPPA, as it would introduce the notion of individual benefit into the protection of personal information. This is one of the reasons that the 2020 Review recommended that only the final report may be disclosed to a complainant or respondent, or otherwise where in the public interest, subject to any appropriate exceptions.

The City agrees with the recommendation made in the 2020 Review with respect to the release of the final report only, subject to appropriate exceptions. The applicability of s. 40, or other exceptions, to s. 33 of the Act does not render the section meaningless. The OIPC, in the above noted decision, recognized that the way the reports were drafted resulted in no information being provided. Section 40, in of itself, does not mean that s. 33 has no applicability.

(ii) Extension of workplace investigation to include others

Section 33 of the Act in its current form has been interpreted as excluding elected officials. The Supreme Court of Newfoundland and Labrador considered the issue of elected officials' status as employees for the purposes of ATIPPA, 2015 in Kirby v. Chaulk, 2021 NLSC 86. The court stated:

[69] The meaning of employee as it has been interpreted under ATIPPA does not support that it includes elected members to the legislature. Nor does the meaning of “employee” as it has been interpreted under the common law support such an interpretation. When I consider the purposes of ATIPPA, including that it limits access to information where the proper functioning of government is at stake, the extension of the meaning of employee to include elected members of the legislature is strained, at best, and not supportable.

[70] ATIPPA defines “employee” under section 2(i), as it relates to a public body, as “includes a person retained under a contract to perform services for the public body”. Although “member” is not defined under ATIPPA, the Act nonetheless distinguishes between “elected officials” and “employees”. For example, section 3(1)(b) of ATIPPA, in the statement of the purposes of the Act, states:

3. (1) The purpose of this Act is to facilitate democracy through

...

(b) increasing transparency in government and public bodies so that elected officials, officers and employees of public bodies remain accountable;

Emphasis added.

[71] The reference to “elected officials” and “employees” in the statement of purposes of ATIPPA under section 3(1)(b) supports that the legislation distinguishes between these two categories of individuals. The distinction between “elected official”, “officer” and “employee” in the statement of the purposes of Act, also supports that for the purposes of interpretation of the ensuing sections, a distinction is to be made between individuals under the Act that are referred to as “employees” versus an “elected official”. The distinction also supports that the extent to which there may be increased “transparency” in government may depend on whether the subject of the access request is an “employee”, “officer” or “elected official”. What may be appropriate for an employee may not be appropriate for an elected official.

After citing this decision in Report A-2023-034, then Commissioner Harvey opined:

[10] As such, as an elected official of the Town, ATIPPA, 2015 does not grant the same protections to the named elected official who is the respondent to the harassment investigation as those afforded to an employee. Given that the respondent to the harassment complaint is an elected official, the investigation does not constitute a “workplace investigation” as defined by the Act, and section 33 cannot apply.

In a public body such as a municipality, it is the elected officials that run the corporation. While not considered to be employees of the municipality due to their elected status, members of council make the decisions that guide the municipality. To borrow language from the 2020 Review, elected officials certainly work in and are closely associated with a public body.

The recommendation in the 2020 Review to extend the definition of a workplace investigation to include others holding a position within a public body recognizes that the protections afforded by section 33 may be appropriate in circumstances that extend beyond the traditional employer-employee relationship.

The Municipal Conduct Act required the development of a code of conduct applicable to all councillors of a municipality. Complaints may be filed against a councillor with a resulting investigation. Section 14(6) of the said act specifically states that a complaint filed under that section is not considered a workplace investigation for the purposes of the Act.

The Councillor Code of Conduct By-Law sets out requirements for City Councillors, and the process for making a conflict of interest or other complaint against a Member of Council. The City recognized that in complaints of wrongdoing, depending on the nature of the allegation, anonymity may be sought by a complainant. The City allowed for anonymity under s. 48 of the By-Law but stated that it could not be guaranteed. The City also provided that any final report that must be tabled at a Regular Meeting of Council would be subject to “...all appropriate redactions of Confidential Information and personal information as

required under ATIPPA or applicable law.” See sections 38, 53, and 61 of the Councillor Code of Conduct By-Law.

Section 33 of the Act addresses a workplace complaint of harassment and the subsequent investigation. During the 2020 Review there were many comments about workplace investigations involving imbalances of power requiring more confidentiality. Elected officials may not be considered employees, but they certainly have an important overall function, hold decision making authority, and have ongoing interactions with management and employees of the public body.

A workplace investigation involving individuals who work in or are otherwise closely associated with a public body should fall under the provisions of s. 33 of the Act. The purpose of the section remains in place: a complaint is being made about harassment or poor conduct in the workplace. Whether the complaint is against a fellow employee or another person holding a position within the public body, does not deter from the essence of the complaint.

Nor should an employee making a complaint alleging a breach be provided any less protection under the Act with respect to their personal, confidential information because the other person is not an employee but does hold a position in the public body. The concerns expressed by various participants in the 2020 Review are even more pertinent when considering that reluctance to come forward may result in fewer complaints being made.

The provision of a final report on a discretionary basis balances the privacy of all individuals involved in a workplace investigation but also provides a mechanism for a complainant and respondent to understand and pursue the matter further if they deem necessary. While the final report would be subject to appropriate exceptions, it still creates the important balance between a full investigation into a workplace allegation while protecting the private information of those participating should they wish to do so.

Recommendation: The City agrees with the recommendations made in the 2020 Review and submits that despite recent jurisprudence expanding the applicability of other sections of the Act to s. 33, this section remains relevant with the recommended amendments.

E: Legal Advice

(i) Solicitor-Client Privilege

The Act sets out that a public body may refuse to disclose information that is subject to solicitor-client or litigation privilege or would disclose legal opinions. A public body shall also refuse disclosure of information that is subject to privilege of another person (see section 30).

At the same time, the wording currently allows for the Commissioner to require any record in the custody or control of a public body that they consider relevant to an investigation to be produced and examined (section 97(3)). The documents provided to the Commissioner do not affect solicitor-client or litigation privilege (section 100(2)).

There is significant friction with the legislative requirement that privileged documents must be provided to the Commissioner for review. In particular, it may be considered a breach of the privilege if records are provided in any manner.

The 2020 Review considered the nature of privileged documents in the context that the Act presently gives the Commissioner the ability to compel disclosure, but stipulated that the production should only be required in cases where it is absolutely necessary to determine whether privilege exists:

This requirement that production of the documents be “absolutely necessary” for determination of privilege is important. It reflects the clear direction from the Supreme Court of Canada that production of documents in this context – whether to a court or otherwise – is, in effect, a last resort. It is only when there is no other way to fairly assess the claim of privilege that production of the documents themselves may be ordered. (page 120)

And later at page 121:

Subject to my earlier comments concerning legal advice relating to ATIPPA, 2015 litigation, it is appropriate to clarify s. 97 of the Act to recognize that the OIPC has the

authority to require production to it of records over which solicitor-client privilege is claimed, but only after the OIPC has determined that such production is absolutely necessary for a fair determination of the claim. I expect that if public bodies, in good faith, follow the suggestion of Harrington, J.A. and support any claim of solicitor-client privilege with a solicitor's affidavit and an appropriate listing and description of each document, any OIPC order for production would be rare.

Much of the debate during the 2020 Review focused on the University of Calgary decision and what effect that had on the ability of the Commissioner to compel disclosure over documents for which solicitor-client privilege was asserted. Since the Review, the Courts in Newfoundland and Labrador have considered the matter and have determined that production of solicitor-client records to the Commissioner would be a breach of that privilege.

In Newfoundland and Labrador (Minister of Justice and Public Safety) v. Newfoundland and Labrador (Information and Privacy Commissioner) 2022 NLSC 59., Justice MacDonald considered *University of Calgary* and subsequent case law and determined the following:

64 The Supreme Court of Canada found that if a legislature attempts to abrogate solicitor-client privilege, it must do so in clear, explicit and unequivocal statutory language. While the Newfoundland and Labrador legislature intended to abrogate solicitor-client privilege, I must apply the modern approach to statutory interpretation in the context of, as Côté, J said, solicitor-client privilege acquiring "constitutional dimensions" (paragraph 20). Doing so, I find that the statutory language it employed was not sufficiently clear, explicit and unequivocal to abrogate a fundamental core value to our legal system and democratic way of life.

65 I therefore find that the Commissioner has no authority to compel disclosure of solicitor-client records. This result, as Côté J. said, "is consistent with the nature of solicitor-client privilege as a highly protected privilege" (paragraph 57).

...

67 Solicitor-client privilege is not merely a privilege under the law of evidence, as was the Court of Appeal's interpretation when the legislature enacted ATIPPA 2015. It is a fundamental core value to our legal system and democratic way of life. The Supreme Court of Canada in University of Calgary emphasized that this privilege should only be set aside in the "most unusual circumstances" (paragraph 34).

The matter was appealed and heard by the Newfoundland and Labrador Court of Appeal in 2023. The Court of Appeal dismissed the appeal and affirmed Justice MacDonald's determinations:

94 Therefore, notwithstanding that Calgary was neither a constitutional case nor a Charter challenge, and despite evidence of legislative review and recommendations for change to the impugned sections of ATIPPA 2015, I would agree with the applications judge that the language of ATIPPA 2015 is not sufficiently clear, explicit and unequivocal to set aside solicitor-client privilege.

95 For the reasons stated herein, I would conclude that the applications judge did not err in determining that the Commissioner lacked authority to compel production of documents over which the Minister asserted solicitor-client privilege and that therefore the Minister did not need to comply with the Commissioner's recommendation for disclosure to the applicant.

...

97 In closing, I would note as the Court did in Calgary at paragraph 59, that the Court's conclusion on the Commissioner's inability to compel production of records subject to solicitor-client privilege does not leave an applicant without recourse when a public body refuses to produce solicitor-client records. In such an instance, an applicant can appeal the refusal directly to the Supreme Court of Newfoundland and Labrador, under section 52 of ATIPPA 2015 and adjudication of issues associated with the claim of solicitor-client privilege would, as is traditional, be addressed by the courts.

The City submits that the decisions by the Supreme Court of Canada and the Courts in NL make it clear that solicitor-client privilege can only be abrogated with clear and unambiguous language, which the Act does not contain. The nature of the privilege remains a fundamental and substantive rule of the solicitor-client relationship. It attracts constitutional dimensions as a principle of fundamental justice and the right to privacy. Requiring the details or results of the solicitor-client relationship to be revealed erodes access to justice and proper legal functioning.

The City recognizes that transparency is a tenet of access to information. However, a public body is no different from a private citizen when legal advice is sought. Removing the right of a public body to seek legal consultation and advice does not advance transparency or access to information. Preserving solicitor-client privilege allows public bodies to seek and receive full and frank legal advice in the discharge of their statutory duties and responsibilities. The nature of the privilege is not altered solely due to the nature of the client being a public body instead of a private citizen.

The City suggests that given the jurisprudence since the 2020 Review, the Act should be amended to clearly state that the OIPC cannot compel production of documents subject to solicitor-client privilege. This suggestion does not mean that a request for records over which solicitor-client privilege is claimed is fruitless: any claim by a public body could be substantiated with the use of a solicitor's affidavit with appropriate listing and description without releasing the privileged record.

In some instances, an affidavit, while preferred and suggested in the 2020 Review, may not be necessary. Report A-2025-010 is an example where, despite an affidavit not being used, the OIPC was satisfied that the information provided by the Department of Justice and Public Safety was sufficient to withhold the records.

If there is a recommendation to release the requested records over which privilege is claimed, the matter should proceed to the General Division for review “as is traditional.”

Recommendation: The City agrees with the recommendation made in the 2020 Review that the right of entry and examination and copying of a record does not extend to a record over which solicitor-client privilege is claimed. The City suggests that the Act should be amended to remove the ability of the Commissioner to compel privileged documents.

(ii) Settlement Privilege

Settlement privilege surrounds the process of settling disputes. During negotiations, discussions and compromises may be made by parties to achieve a resolution. Such “without prejudice” correspondence and records are confidential between the parties, are not produced to others, and would not be ordered under the Rules of the Supreme Court, 1986.

In Report A-2018-002 the OIPC reviewed whether settlement privilege would be included in s. 30(1) of the Act. The Commissioner at the time concluded that the wording of the Act did not encompass settlement privilege.

Nonetheless in 2020 the Honourable David B. Orsborn considered whether settlement privilege remained as a free standing common law exemption to disclosure under the Act. After reviewing the issues in detail, he recommended that the Act should be amended to include settlement privilege in subsection 30(2) (page 138).

Part of the rationale for including settlement privilege is that the privilege is not solely that of a public body, but of 3rd parties as well. The information which is not of a public body should not be subject to disclosure, and a 3rd party should be able to avail of the protection created by settlement privilege. As s. 30(2) is a mandatory exception, settlement privilege is best included therein.

Recommendation: The City agrees with the recommendation made in the 2020 Review to amend the Act to include settlement privilege in subsection 30(2) and submits that this Committee should also implement the recommendation.

F: Disregards: Frivolous or Vexatious

The Act allows for a public body to apply for a disregard if the request would amount to an abuse because it is trivial, frivolous or vexatious (s. 21(1)(c)(i)). As discussed previously s. 21 requires that an application be made by a public body within a certain amount of days after receiving a request, currently 5 business days but recommended to be extended to 10.

The Commissioner also has the ability to decide not to investigate a complaint if they are satisfied that the complaint is trivial, frivolous, vexatious or made in bad faith (s. 45(1)(d)). The Commissioner has the same discretion with respect to not investigating a privacy complaint under s. 75(d).

In the 2020 Review, The Honourable David B. Orsborn stated, at page 45:

In my view, the issue of frivolous and vexatious requests is properly and fairly addressed in the context of a particular request or requestor. This would allow an objective assessment to be made on whether the request should be disregarded or, in more serious circumstances, an application made seeking a vexatious applicant determination.

And later when addressing vexatious applicants at page 71:

As set out in the previous section, the Act provides that the commissioner may, upon application, approve the disregarding of a request that is an abuse of the ATIPP process.

However, maintaining the capacity of the ATIPP system to respond to bona fide requests on a timely basis and, more importantly, maintaining respect for the Act and its objectives, calls for the ability to be able to prevent, up front, the repeated filing of such requests from a single applicant. One coordinator reported that one applicant had, over a period of years, filed 80 requests, 50 of which resulted in an approval to disregard. Another reported that, over 12 months, a requestor had filed requests containing over 304 individual questions and had made 33 complaints to

the OIPC. This type of experience is not unique. The quasi-constitutional right to access information is not a right to harass; the resources needed to respond to legitimate requests cannot be squandered in responding to vexatious requests and in filing the inevitable disregard applications.

A public body should be able to ask the commissioner to declare an applicant to be a vexatious applicant, with the commissioner having the authority to order that future requests be subject to the prior approval of the commissioner for the period of time specified by the commissioner. Such an order would be subject to appeal to the Supreme Court. This oversight by the commissioner, exercised in accordance with established principles, would help to preserve the ATIPP system for its intended uses. While my expectation is that this authority will be rarely used, its presence and considered exercise when required may act as a deterrent to abuse of the process.

The recommendation made was that the head of a public body could ask the Commissioner to declare an applicant vexatious for a period of time to be determined by the Commissioner (page 72).

The OIPC in its guidance document on Applying to the Commissioner for Approval to Disregard and Access to Information Request outlines what it considers to be trivial, frivolous and vexatious requests under s. 21:

Trivial, frivolous and vexatious requests are often similar in nature. An ATIPP request can be considered “trivial” or “frivolous” when it is of little weight or importance or is without merit. It is important for a public body to consider, however, that information which may be trivial or frivolous from one person’s perspective may be of importance from another.

A frivolous ATIPP request is one made primarily for a purpose other than gaining access to information. It is typically associated with matters that are trivial or without merit.

When making a determination whether a request is trivial or frivolous, the Commissioner will assess whether a public body has established, on reasonable grounds, that the request is part of a pattern of conduct that amounts to abuse of the right to make a request or is made in bad faith. As approving a request to disregard essentially eliminates an applicant's right to access information, doubt will be resolved by the Commissioner in favour of applicants.

...

The term "vexatious" means "with intent to annoy, harass, embarrass, or cause discomfort." While it is not uncommon for Coordinators to find requests for information bothersome or vexing in some fashion or another, one cannot disregard a request as vexatious simply because of a subjective view that a request has an annoying or vexatious component.

The following factors may support a finding that a request is vexatious:

- 1. a request that is submitted over and over again by one individual or a group of individuals working in concert with each other;*
- 2. a history or an ongoing pattern of access requests designed to harass or annoy a public body;*
- 3. excessive volume of access requests;*
- 4. the timing of access requests;*
- 5. abusive or aggressive language;*
- 6. burden on the public body;*
- 7. personal grudges;*
- 8. unfounded accusations.*

Communications from applicants unrelated to requests may provide evidence of harassment, abuse or other ulterior motive. As an example, in Ontario Order MO-

2488, one of the multitude of reasons for finding that a request was made for a purpose other than to obtain access and was therefore frivolous included that the applicant sent more than 300 emails to the institution in a six-month period and telephoned staff almost daily.

It is important to note that determining a request to be trivial or frivolous does not preclude that applicant from simply resubmitting a revised request for information. It does not ban an applicant from seeking documentation under the Act. The same is true for a vexatious applicant; while the applicant may be so declared by the Commissioner, the applicant can still make access to information requests with prior approval for a period of time. This is similar to a court declaring a party to be vexatious; access to the court continues, subject to leave.

The City's experience with frivolous or vexatious applicants has fortunately not been extensive. Certain requests should be considered trivial, frivolous or vexatious as set out in s. 21 of the Act, however, the process of approval by the Commissioner may be less efficient than allowing the head of a public body to decide that a request is trivial/frivolous or vexatious using the criteria set out by the OIPC. Similar to the use of an extension, the applicant and the Commissioner would be notified that the head of a public body has made the determination. Further, a cost saving measure for an applicant would be that they could seek a review by the Commissioner of the public body's determination instead of proceeding immediately to Court.

Given the criteria set out to determine whether a request or applicant is frivolous or vexatious, the City submits that the use of a declarative ability by a public body would be used sparingly.

This suggestion is not novel to Newfoundland and Labrador. The Personal Health Information Act allows a custodian to refuse access on the grounds discussed:

58.(3) In addition to the grounds set out in subsections (1) and (2) , a custodian may refuse to grant a request for access to a record of personal health information where

the custodian believes on reasonable grounds that the request for access to the record is

(a) frivolous or vexatious;

(b) made in bad faith; or

(c) for information already provided to the individual.

Allowing the head of a public body to make such a determination is in place in other jurisdictions in Canada, such as Ontario:

10 *(1) Subject to subsections (1.1) and 69 (2), every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless,*

(a) the record or the part of the record falls within one of the exemptions under sections 12 to 22; or

(b) the head is of the opinion on reasonable grounds that the request for access is frivolous or vexatious.

And Manitoba:

13 (1) *The head of a public body may disregard a request for access if the head is of the opinion that*

(a) the request is trivial, frivolous or vexatious;

(b) the request is for information already provided to the applicant;

(c) the request amounts to an abuse of the right to make a request because it is

(i) unduly repetitive or systematic,

(ii) excessively broad or incomprehensible, or

(iii) otherwise not made in good faith; or

(d) responding to the request would unreasonably interfere with the operations of the public body.

The City acknowledges that the foregoing was considered previously when the Act was drafted. However, this Committee should review this suggestion with the history available since the Act's implementation and the experiences of the public bodies with increased requests, particularly those generated by artificial intelligence.

Recommendation: The City suggests that the Act be amended to allow the head of a public body to disregard a request that is trivial or frivolous. The City also suggests that the head of a public body be permitted to determine that an applicant is vexatious. The foregoing determinations would be reviewable by the OIPC.

G: Other Recommendations

The City is providing comments on the following recommendations from the 2020 Review as they appear in Appendix L: Summary of Recommendations which formed part of the final publications of the Review.

The ATIPP Coordinator: The City provides each Access and Privacy Analyst with a formal mandate letter and each signs an oath/affirmation of confidentiality.

The Applicant: The City agrees with these recommendations.

The Request Process:

- a) Fees and Costs: The City agrees with these recommendations.
- b) Record Format: Agree with this recommendation.
- c) Transfer of Request: Agree.
- d) Advisory Response: Agree

Information Management and Information Technology Issues

The City has no comment on these recommendations.

Exceptions To Access

Other than the submissions made herein, the City has no further comment on the recommendations.

Public Interest Override

With the exception of submissions the City made with regard to s. 33 workplace investigations, the City has no further comment.

Sunset Clauses

The City has no comment on this recommendation.

Submissions of the Newfoundland and Labrador Veterinary Medical Association

The City has no comment on this recommendation.

Submissions of the Office of the Speaker of the House of Assembly

The City has no comment.

Submissions of the Statutory Offices of the House of Assembly

The City has no comment.

Office of the Information and Privacy Commissioner

The City has no comment.

Municipalities

The City agrees with the recommendations set out in the 2020 Review, but suggests that all municipalities, and not necessarily just those established under the Towns and Local Service District Act may be part of any cost development process established by government.

Recommendations 4 and 16 of the Muskrat Falls Inquiry

The City has no comment.

Publication Schemes, Information Directories and Proactive Disclosure

The City has no comment.

Protection of Privacy

The City has no comment on the majority of the recommendations made under this section. The City does agree that guidance should be developed by government with regard to the issues surrounding artificial intelligence (AI).

AI is becoming more prominent throughout society, not just within public bodies. While the City is developing policies and has training for employees on the use of AI, it is a constantly evolving field, with privacy and security being paramount concerns.

As part of the Terms of Reference for this Committee, “Privacy Safeguards and Emerging Technologies” is an area for consideration. In addition to AI, biometric data and more readily available surveillance technologies create challenges for public sector bodies.

The City’s use of AI is currently limited, with training provided to all employees as to appropriate usage, including that confidential or personal information should not be entered into a program like Chat GPT.

The 2020 Review recommended some oversight by the OIPC when a public body develops a program or service using automated decision systems (page 380). In describing this oversight, The Honourable David B. Orsborn wrote:

I do not know whether or not this initiative involved an algorithmic assessment. Such an assessment would help to assess and mitigate any impacts associated with the automated decision system and would ensure that the principles of transparency and accountability in public body decision making are respected in the design and operation of the system. Requiring any public body contemplating the introduction of an automated decision system to address these issues is well within the spirit of ATIPPA, 2015. I recommend that a public body in such circumstances be required to complete an algorithmic assessment. Respect for the objectives of transparency and accountability also requires that once an automated decision system is brought into operation, records of processing activities should be maintained and retained in sufficient detail to allow any automated decision to be understood and potentially contested. I recommend accordingly. These recommendations for completing an algorithmic assessment and for maintaining records of processing activities apply to all public bodies.

A degree of oversight of the development and use of automated decision systems is a necessary pre-condition if the ATIPP obligations of the protection of personal information and accessibility of information are to be met. I do not consider it appropriate at this early stage to extend the oversight function beyond the borders of the central functions of government. I recommend that a level of oversight be

provided by requiring that departments of government notify the commissioner of a planned automated decision system at an early stage of development and, if requested by the commissioner, provide the algorithmic assessment to the commissioner for review and comment.

The Government of Canada has developed an algorithmic impact assessment tool to support the Directive on Automated Decision-Making by the Treasury Board: [Algorithmic Impact Assessment - Canada.ca](#) . This helps determine the impact level of an automated decision system. Completed assessments are also available.

The assessment tool requires information on safeguarding personal information as part of mitigation measures. A Privacy Impact Assessment may suffice as part of mitigation. Consultation with the appropriate Privacy office is also encouraged.

Impact levels of automating an administrative decision range from I (little impact) to IV (very high impact) which includes impacts on the rights of individuals or communities, health or well-being, economic interests, and ongoing sustainability.

As with any assessment, the results are only as good as the information put in. With something like privacy implications, the City agrees that consultation with the OIPC may be required as part of the overall development and use of automated decision systems. A review of the algorithmic assessment may not provide enough information for the Commissioner to completely review and provide feedback if necessary on the automated system. The City suggests that a review of potential automated decision systems requires technical expertise on the evolving nature of AI and the technologies under development. The City agrees with the statements made in the 2020 Review that the OIPC is the only privacy oversight body and that the creation of a new oversight body is unlikely (page 373).

The City would also encourage any legislative amendments or guidance respecting AI and emerging technologies to be sufficiently flexible and technology neutral. The pace at which these technologies are developing makes it difficult for prescriptive requirements tied to particular systems or applications to remain current. A principles-based approach, focused on matters such as transparency, accountability, appropriate collection and use of

personal information, human oversight, and assessment of privacy risk, may provide public bodies with clearer guidance as technologies continue to evolve.

The OIPC has the expertise to interpret and provide recommendations on access requests and privacy complaints under the Act or the Personal Health Information Act but a review on automated decision systems requires the provision of additional resources and funding to the OIPC to develop and retain the expertise in this constantly developing field, particularly if consultation with the OIPC is something that public bodies would benefit from having available.

Further, the City has also observed an increase in requests that appear to have been drafted using AI tools. This brings about two issues: first that records are being inputted into AI tools like ChatGPT to produce ATI requests. While not in the control of the City, it is concerning that private or confidential information may be entered into such programs.

As well, the City has also experienced operational challenges associated with the complexity and scope of these requests. AI-generated requests can be lengthy, overly broad, or contain complex and ambiguous language, making it difficult to determine the specific records being sought. This places additional demands on the Access and Privacy analysts and City staff, who must devote considerable time to interpreting and clarifying requests before the identification and retrieval of responsive records can begin. The City encourages consideration of these emerging challenges, particularly the need for guidance that supports the submission of clear and sufficiently specific access requests while recognizing the operational and resource constraints faced by public bodies in administering the Act.

Political Parties and Personal Information

The City has no comment.

Alumni Engagement

The City has no comment.

Complaints, Recommendations and Appeals

The City agrees with all recommendations.