



ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT, 2015

Statutory Review 2020



The Honourable David B. Orsborn, Committee Chair

June 2021

VOLUME 1: THE REPORT

VOLUME 2: APPENDICES

**ACCESS TO INFORMATION AND PROTECTION OF
PRIVACY ACT, 2015**

2020 STATUTORY REVIEW

**VOLUME 2:
APPENDICES**

The Honourable David B. Orsborn, Committee Chair

Submitted to:

**The Honourable John Hogan, Q.C.
Minister of Justice and Public Safety and Attorney General
for the Province of Newfoundland and Labrador**

June 2021

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APPENDIX A: TERMS OF REFERENCE

The **Access to Information and Protection of Privacy Act**, SNL2002, c. A-1.1 (“ATIPPA”) was proclaimed into force on January 17, 2005, with the exception of Part IV. Part IV was subsequently proclaimed on January 16, 2008. In 2010, the first legislative review of ATIPPA resulted in amendments that came into force on June 27, 2012. A second legislative review was initiated in 2014 and resulted in the adoption of the **Access to Information and Protection of Privacy Act, 2015**, SNL2015, c.A-1.2 (“ATIPPA, 2015”) in June 2015.

Pursuant to section 117 of ATIPPA, 2015, the Minister of Justice and Public Safety, as Minister responsible for the Act, is required to refer the legislation to a committee for the purpose of: (1) undertaking a comprehensive review of the provisions and operation of the Act or part of it after the expiration of not more than 5 years after the coming into force of the Act or part of it and every 5 years thereafter; and (2) to review the list of provisions in Schedule A to determine the necessity for their continued inclusion in Schedule A.

The Committee shall terminate its work and deliver its final report to the Minister of Justice and Public Safety on or before March 31, 2021.

Review Committee (“Committee”)

The Committee reviewing the legislation shall consist of retired Supreme Court Justice David B. Orsborn who shall complete the review independent of the Government of Newfoundland and Labrador.

Mandate:

The comprehensive review of the provisions and operation of the ATIPPA, 2015 will include, but will not be limited to, an examination of the following issues:

- Public and public body experience in using and administering the ATIPPA, 2015 to access information in the custody or control of public bodies in Newfoundland and Labrador and opportunities for improvement;
- Whether there are any categories or types of information (personal information or otherwise) that require greater protection than the ATIPPA, 2015 currently provides;

- Public body response times for access requests and whether the current ATIPPA, 2015 requirements for response and administrative times are effective;
- An examination of exceptions to access as set out in Part II, Division 2 of the Act;
- Whether there are any additional uses or disclosures of personal information that should be permitted under the Act;
- An examination of the complaints process to the Office of the Information and Privacy Commissioner;
- An examination of the request for extensions/disregards process to the Office of the Information and Privacy Commissioner;
- Whether the current Cost Schedule set in accordance with subsection 25(6) of ATIPPA, 2015 is effective;
- Whether there are any entities which would not appear to meet the definition of “public body” but which should be subject to the ATIPPA, 2015;
- Whether the provisions of the ATIPPA, 2015 are effective for local government bodies; and
- Consideration of Recommendations 3, 4, and 16 arising from the Report issued by the Honourable Richard D. LeBlanc, Commissioner of the Commission of Inquiry Respecting the Muskrat Falls Project, dated March 5, 2020, and report on conclusions with respect to those recommendations.

Stakeholders:

The Committee may receive written submissions and/or conduct consultations with interested parties, including but not limited to the Office of the Information and Privacy Commissioner,; the general public,; media,; public bodies,, including local government bodies; and, ATIPP Coordinators.

Public consultation sessions may be scheduled, at the discretion of the Committee. In consultation with the Communications and Public Engagement Branch, consideration will be given to the use of alternate methods of consultation that promote the engagement of interested parties, regardless of regional location (e.g. online surveys, etc).

APPENDIX B: AMENDMENT TO TERMS OF REFERENCE



Government of Newfoundland and Labrador
Department of Justice and Public Safety

24 March 2021

Chair David Orsborn
ATIPPA, 2015 Review Committee
DavidOrsborn@nlatippareview.ca

Dear Mr. Orsborn,

Re: Extension of the Terms of Reference for the ATIPPA, 2015 Review Committee

The Terms of Reference (TOR) for the legislative review of the **Access to Information and Protection of Privacy Act, 2015** (the Act) required the final report of the Committee to be submitted on or before March 31, 2021.

On January 15, 2021, the provincial election was announced and government advised the Committee that it would not be able to participate in the public hearings that were scheduled from January 18, 2021 to January 29, 2021, given caretaker convention constraints. At the time you confirmed that government could present after the election scheduled for February 13, 2021, and that this would not interfere with the March 31, 2021 deadline.

Due to an extended election caused by the province reverting to Alert Level 5 as a result of COVID-19, presentations have not yet been rescheduled. Given this, we understand the deadline of March 31, 2021 is no longer sufficient for the Committee to complete its remaining work. Therefore, the Minister of Justice and Public Safety has extended the TOR and staffing contracts for the Review Committee to on or before June 30, 2021.

If you have any questions or concerns, please do not hesitate to contact Donna Ballard, ADM of Courts and Corporate Services, at donnaballard@gov.nl.ca.

Sincerely,

A handwritten signature in blue ink, appearing to read "J Mercer".

Jennifer Mercer, Q.C.
Deputy Minister
Deputy Attorney General

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APPENDIX C: PARTIES WHO PROVIDED WRITTEN SUBMISSIONS

- ATIPP Office (Department of Justice and Public Safety)
- Canadian Bar Association, Newfoundland and Labrador
- Centre for Law and Democracy
- City of Corner Brook
- City of Mount Pearl
- City of St. John's
- College of the North Atlantic
- Commissioner for Legislative Standards
- Department of Children, Seniors and Social Development
- Department of Education
- Department of Environment, Climate Change and Municipalities
- Department of Finance
- Department of Fisheries, Forestry and Agriculture
- Department of Health and Community Services
- Department of Immigration, Skills and Labour
- Department of Industry, Energy and Technology
- Department of Justice and Public Safety
- Department of Tourism, Culture, Arts and Recreation
- Department of Transportation and Infrastructure
- Digital Government and Service NL
- Executive Council
- Heavy Civil Association of Newfoundland and Labrador
- Hollett, Edward
- Innu Nation
- Kavanagh, Kenneth
- Lane, Paul
- Law Society of Newfoundland and Labrador
- Memorial University

- Nalcor Energy
- Newfoundland and Labrador English School District
- Newfoundland and Labrador Employers' Council
- Newfoundland and Labrador Veterinarian Medical Association
- Newfoundland Aquaculture Industry Association
- Office of the Chief Information Officer
- Office of the Chief Electoral Officer
- Office of the Child and Youth Advocate
- Office of the Citizen's Representative
- Office of the Information and Privacy Commissioner
- Office of the Information Commissioner of Canada
- Office of the Speaker, House of Assembly
- Oil and Gas Co.
- Oleynik, Anton
- Progressive Conservative Party of Newfoundland and Labrador
- Royal Newfoundland Constabulary
- Stanley, G. Todd
- Town of St. George's

Supplemental Submissions and Responses

- Memorial University – Dec 18, 2020 Supplemental Submission
- Executive Council – Jan 5, 2021 Response to Letter
- Newfoundland and Labrador English School District – Jan 7, 2021 Response to OIPC Submission
- Department of Education – Jan 13, 2021 Response to OIPC Submission
- Memorial University – Feb 12, 2021 Response to Letters
- Newfoundland and Labrador Veterinarian Medical Association – Feb 15, 2021 Supplemental Submission
- Dr. Anton Oleynik – Feb 17, 2021 Supplemental Submission
- Heavy Civil Association of NL – Feb 19, 2021 Response to s. 39 Letter

- Office of the Information and Privacy Commissioner – Mar 4, 2021 Response to s. 39 Letter
- Office of the Chief Information Officer – Mar 8, 2021 Response to Format Letter
- College of the North Atlantic – Mar 9, 2021 Response to s. 39 Letter
- Centre for Law and Democracy – Mar 19 2021 Response to s. 39 Letter
- Department of Justice and Public Safety, ATIPP Office – May 3, 2021 Supplemental Submission
- Office of the Information and Privacy Commissioner – May 14, 2021 Supplemental Submission

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APPENDIX D: RECOMMENDATIONS IN WRITTEN SUBMISSIONS

Definitions [s. 2]

- “Business day” and “Holiday”:
 - (See also Department of Tourism, Culture, Arts and Recreation Recommendation 4 in Time limit for final response recommendations below)
 - Executive Council Recommendation 1: Expand the definition of business day or include a definition of holiday that clearly supports all Provincial Government holidays and remove the reliance on the *Interpretation Act*. – Executive Council Submission, Page 5
 - IET Recommendation 3: Align ATIPP holidays with the public body holidays and reflect unforeseen events which result in closing of offices. – IET Submission, Page 5
 - ATIPP Office Recommendation 1.1: Consider whether the definition of a business day (in s. 2(b)) should be amended to account for public bodies that are not open five days a week. – ATIPP Office Submission, Page 5
 - ATIPP Office Recommendation 1.2: Consider amending the Act to include a definition of “holiday” that will account for all public body holidays. – ATIPP Office Submission, Page 7
 - Digital Government and Service NL Recommendation 9: It is recommended the Act be amended to align ATIPP holidays with government approved holidays. – DGSNL Submission, Page 5
 - Department of Finance Recommendation 3: Suggest a review of subsection 2.(b) “business days” as it is noted that four of government’s days considered as holidays are not considered holidays for the purposes of the *Interpretation Act* and *ATIPPA, 2015*. Currently the following Government holidays are not recognized under the current legislation as holidays for processing: St. Patrick’s Day, St. George’s Day, Discovery Day, Orangeman’s Day. Therefore, should a response be due on these days, either an ATIPP coordinator would have to (i) reduce processing time by one day (19) in order to avail of the above holidays, or (ii) work and not be given the same days off as the rest of government employees. – Dept of Finance Submission, Page 2
 - OIPC Response: If circumstances arise where the full 20 business days are required and there has been an emergency closure for a storm or other valid reasons for one or more days, the OIPC is very responsive to such concerns in granting time extensions, and furthermore if the event occurs after the 15 business day deadline to apply for a time extension, public bodies can support extension requests by referencing the extraordinary circumstances provision in section 24. – OIPC May 14, 2021 Supplemental Submission, Page 35
- “Personal information”
 - OIPC Recommendation 4.5: Provide a definition of “use of personal information” consistent with that found in *PHIA*. – OIPC Submission, Page 25
 - ATIPP Office Response 1: For the reasons outlined above, our Office suggests that the Committee not adopt provisions from PHIA as amendments to the Act.

Alternatively, if the Committee determines that amendments to the Act based on recommendations put forward by the OIPC in relation to PHIA are appropriate, our Office would suggest that the Committee consider modifying any provisions from PHIA to include a “reasonableness” clause. – ATIPP May 3, 2021 Office Supplemental Submission, Page 5

- Publicly available personal information:
 - City of Corner Brook Recommendation 10: Suggest an exception for “personal information” [s. 2(u)] that generally states if the information is publicly available with the knowledge or consent of the person it is no longer “personal information.” (For example if they have their name, address and phone number listed in a phone directory it is in the public domain and no longer personal information). – City of Corner Brook Submission, Page 3
 - ATIPP Office Recommendation 1.3: Consider amending the Act to exclude business contact information from the definition of personal information (other than cell phone numbers not readily publicly available or in the third party “signature”). – ATIPP Office Submission, Page 8
- Opinions about other people are their personal information:
 - City of Corner Brook Recommendation 11: [s. 2(u)(viii) and s. 2(u)(ix) (under the definition of “personal information”)] are a little confusing and require clarity – City of Corner Brook Submission, Page 3
 - RNC Recommendation 14: It is recommended that [“personal information”: s. 2(u)(viii) and 2(u)(ix)] be updated to be clearer for anyone who interprets the legislation. – RNC Submission, Page 14
 - MUN Recommendation 1.2: Memorial University further recommends an amendment in the definition of Personal Information to clarify that the individual’s personal views or opinions about another person that are provided in relation to workplace conduct are not the personal information of the person complained about except where relevant to a workplace investigation. – MUN Submission, Page 3
 - Anton Oleynik Response: ...If [MUN Recommendation 1.2] is accepted, the amendment would go against the letter of the spirit of the ATIPPA, I believe.
- MUN Recommendation 1.1: Memorial University recommends that the definition of Personal Information in *ATIPPA, 2015* be amended to protect, as personal information of the author, “correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence.” – MUN Submission, Page 3
- Biometrics:
 - OIPC Recommendation 6.1: That [the definition of “person”, specifically] s. 2(u)(v), be amended to state: “(v) the individual’s fingerprints, other biometric information, blood type, genetic information or inheritable characteristics” – OIPC Submission, Page 35

- OIPC Recommendation 6.2: That biometric information be defined as it is found in the Alberta and PEI statutes: “Biometric information” means information derived from an individual’s unique measurable characteristics. – OIPC Submission, Page 35
- Newfoundland and Labrador Centre for Health Information Recommendation 1: The Centre has noted the following potential additions to the definition of “personal information” that the ATIPP Review Committee may wish to consider: Internet Protocol (IP) addresses. Other jurisdictions have held that IP addresses are included in the definition of personal information (see Review Report LA-2013-003 OIPC Sask). A vast array of information can be assembled on an individual from their IP address. Given the ability to track an individual’s web activity using an individual’s IP address and the general public’s lack of knowledge as to how to hide or disguise such information, the Centre proposes that IP address should be explicitly contained in the definition of personal information. – HCS Submission, Annex D, Page 3
- OIPC Recommendation 4.3: Include a definition of consent in *ATIPPA, 2015* modelled on the definition within *PHIA* but limited to circumstances involving the collection, use or disclosure of personal information. – OIPC Submission, Page 23
 - (See also ATIPP Office Response 1 in ‘Definitions’ [s. 2] above)
- OIPC Recommendation 5.1: Amend the definition of “privacy impact assessment” in such a way to make it similar to the one in the Northwest Territories Bill 29 amending the NWT ATIPPA and remove the reference to a specific class of public bodies from the definition of s. 2(w). – OIPC Submission, Page 27
 - ATIPP Office Response 3: If the Committee amends the definition of privacy impact assessment, consideration be given to ensure the definition is broad enough to continue to encompass the preliminary privacy impact assessment. – ATIPP Office May 3, 2021 Supplemental Submission, Page 7
- “common or integrated program or service”
 - ATIPP Office Recommendation 1.4: Consider amending the Act to provide a definition of program or service [to assist with interpreting s. 72] – ATIPP Office Submission, Page 8
 - OIPC Recommendation 5.3: Amend s. 2 to add a definition of the term “common or integrated program or service.” – OIPC Submission, Page 31
 - ATIPP Office Response 4.1: If the Committee determines it appropriate to include a definition for a common or integrated program within the Act, our Office would suggest consideration be given to adopting the definition this Office relies on. Alternatively, if the Committee determines that the definition recommended by the OIPC is appropriate, we would suggest consideration be given to adding provisions to the Act noting that where a department (e.g. OCIO, CPEB) is providing purely support services to a client department those services do not fit within the definition. – ATIPP Office May 3, 2021 Supplemental Submission, Pages 8-9
- OIPC Recommendation 7.1: Incorporate a definition of artificial intelligence into *ATIPPA, 2015*. – OIPC Submission, Page 37

- OIPC Recommendation 8.1: Recommendation 8.1: broaden the scope of *ATIPPA, 2015* to include political parties by adding “registered political party” to the definition of a public body in s. 2. – OIPC Submission, Page 40
- OIPC Recommendation 16.2: Include gender as a separate term in section 2(u)(iii) – OIPC Submission, Page 67
- City of Corner Brook Recommendation 9: Definition of employee [s. 2(i)] needs to be clarified to accord with common law as to when a person is an employee versus and independent contractor. It should only apply to persons retained under “a contract of service” with the public body (ie. An employee) and not to persons who are retained under a “contract for services” (ie. An independent contractor) – City of Corner Brook Submission, Page 3
- City of Corner Brook Recommendation 12: Definition of law enforcement [s. 2(n)] needs to be clarified to confirm if Municipal Enforcement Officers are included in the definition of policing – City of Corner Brook Submission, Page 3
- Centre for Law and Democracy Recommendation 3.2: Insert a new subsection into s. 2(x), which defines public bodies, to include the judicial branch of government and private bodies that fulfil public functions or receive public funds.– Centre for Law and Democracy Submission, Page 12
- ~~Centre for Law and Democracy Recommendation 3.3: s. 2(x)(vii) should be removed.– Centre for Law and Democracy Submission, Page 12 – Withdrawn January 19, 2021~~
- Centre for Law and Democracy Recommendation 3.4: The *ATIPPA* should be amended to cover any corporation over which the Crown has effective control, as well as any private body which undertakes a public function or operates with significant public funding.– Centre for Law and Democracy Submission, Page 12
- Commissioner for Legislative Standards Recommendation 1: The removal of the Commissioner for Legislative Standards from s. 2(r) would be a relatively simple legislative amendment that would take [the Commissioner] outside the *ATIPPA*. (See alternative recommendation in Disclosure of House of Assembly service and statutory office record [s. 41(c)] recommendations below). – Commissioner for Legislative Standards Submission, Pages 5-6
- (See also RNC Recommendation 5 in ‘Applications’ recommendations below)
- Commissions of Inquiry:
 - JPS Recommendation 7.1: JPS recommends that, similar to the way in which the Court of Appeal is exempted from the *ATIPPA, 2015*, commissions of inquiry established pursuant to the Public Inquiries Act, 2006 be exempted from the definition of “public body” while the commission is ongoing and up until the release of a final report. – JPS Submission, Page 18
 - Innu Nation Recommendation 4: We support the need for provincial commissions of inquiry to be able to conduct full and thorough investigations and so support recommendations for changes to the Act set out in [The MFI recommendation #16]. – Innu Nation Submission, Page 3
 - ~~OCIO Recommendation 3: It is recommended that, an appropriate communication be prepared to confirm that *ATIPPA* requests made in relation to the subject matter of an inquiry be temporarily put on hold until the final inquiry report is released.– OCIO Submission, Page 2 – Withdrawn May 10, 2021~~

- OIPC Response: It would be contrary to the purpose of ATIPPA, 2015 to enact a provision as proposed. While such topics tend to attract a high volume of requests, that is to be expected, and such a result is simply a fulfillment of the purpose of the Act. – OIPC May 14, 2021, Page 34
- (See also Anton Oleynik Supplemental Recommendation 1 in Provision of information [s. 20] recommendations below)

Purpose and the role of OIPC [s. 3]

- City of Corner Brook Recommendation 13: s. 3(1)(c) should be expanded to clarify protection of litigation and solicitor client privilege, as well as court files and police records. I would add to this section the protection of the administration of justice. – City of Corner Brook Submission, Page 3
- City of Corner Brook Recommendation 14: [The wording of s. 3(1)(f)(i), specifically] “advocate” is problematic. They cannot be both an unbiased and independent body conducting investigations and making findings and also be an “advocate”. I would change the wording so the oversight agency has the role to balance interests of parties with regard to access to information; protection of privacy and exemptions to those privileges as well as addressing administrative burdens; etc. of public bodies in answering requests. It comes to a fair and equitable interpretation of the provisions of the *ATIPPA*. – City of Corner Brook Submission, Page 3
 - OIPC Response: That assertion is presumably based on a misunderstanding of section 3(2)(f)(i) which says that the OIPC “is an advocate for access to information and protection of privacy.” ... The staff and Commissioner takes it as an extremely serious and wholly unfounded accusation that we have failed to act with independence and impartiality in the discharge of our duties regarding the independent review of public body decisions. – OIPC May 14, 2021 Supplemental Submission, Pages 16-18
- (See also City of Corner Brook Recommendation 22 in ‘Complaints [s. 42-60]’ recommendations below)
- (See also Recommendations regarding ‘Other processes to access public body information’ recommendations below)

Schedule of excluded public bodies [s. 4]

- Speaker of the HOA Recommendation 1: The House of Assembly recommends that the review committee consider whether the Management Commission is indeed the appropriate body to make a recommendation contemplated by section 4. – HOA Submission, Page 1
- Speaker of the HOA Recommendation 3: The Committee may wish to consider the use of the term “sitting” in the above noted provisions [s. 4, 7, 88 and 89]. There is a significant possibility that the House could meet for a “sitting”, extraordinary or otherwise, resulting in an unintended outcome. – HOA Submission, Page 4

Application [s. 5]

- (See also OIPC Recommendation 8.1 in ‘Political parties’ recommendations below)

- (See also OIPC Recommendation 16.3 in ‘Purpose and the role of OIPC [s. 3]’ recommendations above)
- Centre for Law and Democracy Recommendation 2.1: The regime of exceptions in the *ATIPPA* should be reviewed carefully... and exceptions that do not protect legitimate interests, that are overbroad or that, to the extent that they are legitimate, are already covered by other exceptions should be removed. – Centre for Law and Democracy Submission, Page 10
- Centre for Law and Democracy Recommendation 2.2: All exceptions, including the matters covered by s. 5, should be subject to a substantial harm test, whether this is achieved via a single overriding provision or specific harm tests for each exception. – Centre for Law and Democracy Submission, Page 10
- Centre for Law and Democracy Recommendation 2.3: A mandatory public interest override should apply to all exceptions, including those in section 5, and it should apply whenever the harm to the protected interest is outweighed by the public interest in disclosure. – Centre for Law and Democracy Submission, Page 10
- Centre for Law and Democracy Recommendation 3.1: The *ATIPPA* should be amended so as to cover all judicial bodies (courts and quasi-judicial bodies) and all of the information they hold, subject to the regime of exceptions (including to protect the administration of justice). – Centre for Law and Democracy Submission, Page 11
- RNC Recommendation 5: The RNC recommends that *ATIPPA, 2015* be updated to better define and determine accurate custody and control of responsive records and to include a clear and definitive decision process when custody and/or control of a record remains unclear. – RNC Submission, Page 6
- (See also Executive Council Alternative Recommendation 2 in ‘Disclosure of House of Assembly service and statutory office record [s. 41]’ recommendations below)
- (See also Recommendations regarding ‘Other processes to access public body information’ recommendations below)
- Digital Government and Services NL Recommendation 12.1: ... It is recommended the *Act* be amended to exclude personal interviews from access requests. Individuals being interviewed should be able to speak openly and honestly, and with the expectation of their privacy from access to information requests. – DGSNL Submission, Page 8
- Digital Government and Services NL Recommendation 12.2: Where court records are publicly available it is recommended the *Act* be amended under s. 5(2) to confirm the *Act* does not apply to records available from the courts. – DGSNL Submission, Page 8
- Law Enforcement
 - RNC Recommendation 10a: It is felt that the wording of s. 5(1)(l-m) should be updated to read “Law Enforcement Agency” instead of “Royal Newfoundland Constabulary” to better protect all records within an public body or other law enforcement agency within the province of Newfoundland and Labrador of this nature. – RNC Submission, Page 10

- Executive Council Recommendation 4: Add the RCMP to the three paragraphs in s. 5 referring to the RNC (ongoing investigations, confidential sources, etc.). This would then exempt the similar RCMP records from the Act as well. – Executive Council Submission, Page 7
- Todd Stanley Recommendation 1: I would suggest [s. 5(1)(k)(l) and (m)] should be reviewed as to whether the exemptions they provide should include reference to criminal law enforcement generally, or at least the RCMP specifically, for consistency in the treatment of records relating to an investigation generally under the Act. – Todd Stanley Submission, Page 2
- RNC Recommendation 10b: s. 5(1)(m) should be updated to include any record where a suspicion of guilt is present regardless if a suspected guilty person(s) are identified at the time of an Access to Information request to protect the information that could eventually lead to and jeopardize a legal proceeding. – RNC Submission, Page 6
- Digital Government and Services NL Recommendation 12.3: Where criminal charges are filed, records relating to the prosecution should fall outside the Act until all matters in respect of the prosecution have been completed. s. 5(1) of the Act should be amended to specifically identify and include OHS prosecutions. – DGSNL Submission, Page 8

Conflict with other Acts [s. 7]

- (See also Speaker of the HOA Recommendation 3 in ‘Schedule of excluded public bodies recommendations [s. 4]’ above)

Right of Access [s.8]

- (See also ATIPP Office Recommendation 4 in ‘Non responsive information recommendations’ below)
- (See also Anton Oleynik Feb 17, 2021 Supplemental Recommendation 1 and 2 in ‘[s. 20] Provision of Information’ below)
- (See also MUN Recommendation 13 in [s. 20] Provision of Information’ below)

Public interest override [s. 9]

- OIPC Recommendation 9.1: Clarify that the burden of proof in the application of the public interest override does not rest solely on the applicant or the public body but that any party, including the OIPC at the review stage, is obligated to bring forward evidence that could be relevant to this determination. – OIPC Submission, Page 42
- OIPC Recommendation 9.2: Include third party business information (section 39) among the list of exceptions to access to which the public interest override in s. 9(1) applies. – OIPC Submission, Page 43
- Centre for Law and Democracy Recommendation 2.5: Sunset clauses should apply to all exceptions that protect public interests and should be set at 15 or 20 years, with the possibility of an extension where this is approved by the Commission. – Centre for Law and Democracy Submission, Page 11

- (See also Centre for Law and Democracy Recommendation 2.3 in Application recommendations above)
- JPS Recommendation 2: While JPS believes that settlement privilege remains applicable though it is not explicitly included in the Act, to ensure that this fundamental privilege is protected, JPS recommends that it be explicitly included as an exemption to disclosure. JPS acknowledges that there must be a balance between the public interest in settlement privilege and the public's right to know how public funds are distributed. To address these concerns, similar to both solicitor-client privilege and litigation privilege, an exemption for settlement privilege should be a discretionary exemption subject to the public interest override found in s. 9 of the Act. – JPS Submission, Page 9
 - OIPC Response: In summary, our view is that settlement privilege should not and need not be “read in” to a statutory regime which has been recognized by courts as a complete code, particularly when it is unnecessary to do so in light of the other exceptions that already exist in the statute which allow public bodies to withhold settlement privileged information in appropriate circumstances... The OIPC supports a more nuanced position on settlement privilege within the statute than the submission from JPS indicates, one which we believe allows for an appropriate balance between competing interests of transparency and confidentiality. – OIPC May 14, 2021 Supplemental Submission, Page 10
- (See also Executive Council Recommendation 15 in ‘Disclosure harmful to labour relations interests of a public body as an employer recommendations’ below)
- OIPC Recommendation 9.3: Consider amending s. 9(3) to remove the potential for limitation of its applicability to matters that are “urgent” as a temporal consideration. – OIPC Submission, Page 45
 - ATIPP Office Response 5: Our Office would suggest that the Committee consider whether it would be more appropriate to put this forward as a recommendation for government to consider rather than a recommendation for amendment. In addition to further analysis, it would be necessary for clear guidance to be developed on how a public body would be able to determine at what point an emerging issue would require disclosure under this Act, if not based on urgency... - ATIPP Office May 3, 2021 Supplemental Submission, Page 10
- CBA NL Recommendation 2: ... we respectfully request that the legislation be amended to remove the application of the public interest override section to litigation and solicitor client privileged information – CBA NL Submission, Page 6

Making a request [s. 11]

- RNC Recommendation 4: The RNC recommends that *ATIPPA, 2015* be updated to better allow for knowing the reasons why information may be sought, at the discretion of the applicant, to allow better and more effective assistance to the applicant. – RNC Submission, Page 5
- (See also ATIPP Office Recommendation 3.2 in ‘Request abandonment and applicant duty to assist recommendations’ below)
- Labrador-Grenfell Health Recommendation 4: There should be clearly identified timelines [date ranges] related to the amount of data requested and the extent of the request. This would allow opportunity to streamline, monitor and measure requests and volumes, as well as provide time to complete the request. – HCS Submission, Annex C, Page 2

Anonymity [s. 12]

- CNA Recommendation 1: Create a provision to ensure ongoing contact with the applicant. [All requests for information should be accompanied by the applicant's email address, mailing address and phone number. This information would only be available to the Coordinator] – CNA Submission, Page 1
- RNC Recommendation 1: The RNC recommends that the *ATIPP* application process be updated to better screen applicants for personal information requests as a safeguard to ensure that the information being sought is not being released to the appropriate person(s). – RNC Submission, Page 2
- ATIPP Office Recommendation 5.1: Consider amending paragraph 12(2)(b) to remove the requirement for consent and replace with “where the name of the applicant is necessary to respond to the request.” If there is any particular concern with this suggestion, consideration could be given to amend paragraph 12(2)(b) to “where the name of the applicant is necessary to respond to the request and is authorized under s.66 of the Act.” – ATIPP Office Submission, Page 13
- After Final Response:
 - ATIPP Office Recommendation 5.2: In relation to the identity of the applicant, consider amending the Act to clarify that the privacy provisions of the Act continue to apply once a final response has been sent to the applicant. – ATIPP Office Submission, Page 14
 - NL English School District Recommendation 2: There needs to be clarification around the timeframe for which an applicant has anonymity. Some have interpreted the Act so that the applicant's name is no longer protected upon final release of the information requested. Clarification is required as to whether this is the intention of the Act. – NLESD Submission, Page 2
 - OIPC Response: We agree. – OIPC May 14, 2021 Supplemental Submission, Page 40

Duty to assist applicant [s. 13]

- (See also all recommendations in ‘Request abandonment and applicant duty to assist’ recommendations below)
- (See also Executive Council Recommendation 16 in ‘Schedule A’ recommendations below)
- MUN Recommendation 11: Memorial University recommends clarification on the review process and enforcement in respect of the duty to assist, taking into consideration: (a) the costs of compliance, b) timely access, (c) the need for finality of the process. – MUN Submission, Page 6

Transferring a request [s. 14]

- Centre for Law and Democracy Recommendation 4.1: s. 14(1)(a) should be removed so that public bodies can only transfer requests where they do not hold the information which is responsive to that request. – Centre for Law and Democracy Submission, Page 12
- Department of Environment, Climate Change and Municipalities Recommendation 3: It is suggested that the timeline for this requirement be removed and replaced with a general responsibility for the

Department to transfer a request once it is determined that the records do not reside with the Department. – ECCM Submission, Page 3

- Department of Education Recommendation 3: Consideration should be given to extending the time to complete a transfer. – Dept of Education Submission, Page 2
 - OIPC Response: We have seen no evidence in terms of the number of requests where a transfer would have been appropriate, except it was prevented by the five day deadline. Without further evidence we would not see this as a high priority for amendment. – OIPC May 14, 2021 Supplemental Submission, Page 38
- Executive Council Recommendation 5: Modify wording to require transferring without delay, but no later than day 15... five days is not always enough time to determine if a transfer is required. – Executive Council Submission, Page 8

Advisory response [s. 15]

- Eliminate Advisory Response:
 - (See also City of Corner Brook Recommendations 4 and 15 in Time limit for final response recommendations below)
 - City of St. John's Recommendation 9: The 10-day update notification letter, which reiterates a file's deadline, is redundant. An acknowledgment letter is sent to the applicant upon receipt of their request which outlines the process, timeline, and other relevant information. – City of St. John's Submission, Page 2
 - IET Recommendation 1c: Eliminate the 10 day update. – IET Submission, Page 3
 - Digital Government and Services NL Recommendation 2: It is recommended the Act be amended to remove the requirement to send an Advisory Letter. – DGSNL Submission, Page 2
- Increase time limit:
 - Eastern Health Recommendation 4: Eastern Health recommends increases to legislated timeframes as detailed in the recommendations section... Timeframe for Advisory Response be Increased from 10 Business Days to 15 Business Days. – Eastern Health Submission, Page 8

Time limit for final response [s. 16]

- Maintain time limit:
 - OIPC Recommendation 16.5: Maintain the current access to information timelines in s. 16. – OIPC Submission, Page 72
- Shorten time limit:

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- Centre for Law and Democracy Recommendation 4.2: Consideration should be given to shortening the initial time limit for responding to requests to ten business days. – Centre for Law and Democracy Submission, Page 12
 - Increase time limit and allow self-extension:
 - CSSD Recommendation 3: Consider a legislative amendment that would allow the head of a public body to extend the time to provide a full response from 20 to a maximum of 30 business days where required, with subsequent requests requiring the approval of the OIPC. – CSSD Submission, Page 2.
 - City of Corner Brook Recommendation 4 and 15: That consideration be given to extending the time limits for responding to requests... The timelines [in s. 15 and s. 16] are incredibly short for larger requests. We would recommend amending to provide a right to more time based on such factors as number of pages, amount of vetting, need to notify third parties, whether exceptions may apply, etc. Perhaps 20 days for every 100 pages of responding documents would be a good starting point. – City of Corner Brook Submission, Pages 1 and 3
 - Department of Environment, Climate Change and Municipalities Recommendation 1: It is proposed that the requirement for the OIPC to approve time extensions be reconsidered and this role be instead assigned to the head of the public body... The Department proposes that a limited self-extension of deadlines, based on a set of criteria, would provide greater flexibility to coordinators... any additional extensions beyond those identified by the Department as well as any complaints regarding the time extension could be referred to the OIPC. – ECCM Submission, Page 2
 - City of Mount Pearl Recommendation 1: Extending the time limit for final response could alleviate stressors on overburdened Coordinators. – City of Mount Pearl Submission, Page 3
 - Eastern Health Recommendation 1: Eastern Health recommends increases to legislated timeframes as detailed in the recommendations section... Timeframe for Final Response be increased from 20 Business Days to 30 Business Days. – HCS Submission, Page 13
 - Time Stop for Clarifications
 - Department of Tourism, Culture, Arts and Recreation Recommendation 3: The process regulations should be amended to reflect the 20 day period for response does not commence until final clarification has been mutually agreed upon between the coordinator and the applicant. – TCAR Submission, Page 2
 - (See also CSSD Recommendations 1 and 2 in Applicant abandonment and applicant duty to assist below)
 - Digital Government and Service NL Recommendation 7: It is recommended the Act be amended to allow for the suspension of the time limit where clarification is needed on the scope of the request. The suspension would start one day after coordinator notifies the applicant that further clarification is needed and end when the applicant replies. – DGSNL Submission, Page 4
 - Department of Transportation and Infrastructure Recommendation 1: Consideration could be given to allowing the clock to stop on the day written communication is sent to the

applicant and re-start subsequent to the response being received. The department would recommend the applicant be required to be informed that the clock has stopped. – TI Submission, Page 2

- OCIO Recommendation 2a: It is recommended that, the clock would not run for the time that is required to clarify an ATIPP request from the applicant. Once clarification is provided, time for a response will resume. – OCIO Submission, Page 2
- Time Stop for Consultations
 - Digital Government and Service NL Recommendation 9: It is recommended the Act be amended to allow for the suspension of the time limit for the time period a record has been sent for consult until a response is provided. – DGSNL Submission, Page 4
- Department of Tourism, Culture, Arts and Recreation Recommendation 4: All Provincial Government holidays and work interruption days (e.g., snow storms, electrical failure) should be recognized as exempt from the 20 day response period. – TCAR Submission, Page 2
- (See also City of St. John’s Recommendation 5 in ‘Disclosure harmful to business interests of a third party Recommendations [s. 39]’ below)
- (See also Executive Council Recommendation 6 in ‘Request abandonment and applicant duty to assist’ recommendations below)
- (See also ATIPP Office Recommendation 15 in ‘Municipalities’ recommendations below)
- (See also Digital Government and Service NL Recommendation 4 in ‘Extension of time limit [s. 23]’ recommendations below)
- OIPC Response: Other submissions have also proposed pausing the 20 business day period for various reasons, such as filing for an extension or to request a disregard. We are of the view that this would represent a regressive step for ATIPPA, 2015. Such amendments could result in an increased number of extension and disregard requests for the purpose of obtaining an automatic extension, and other more subjective reasons for stopping the clock also open the process to abuse or unnecessary delay. – OIPC May 14, 2021, Page 35

Third Party Notification [s. 19]

- Executive Council Recommendation 7: Amend s. 19 to clearly express the low threshold for third party notification. Consider the recommendations of other departments related to s. 39. – Executive Council Submission, Page 11
- ATIPP Office Recommendation 6.1:
 - Consider amending s. 19(4) to allow a third party to provide representations as to why either s.39 or 40 applies to the information in question if they do not consent to the disclosure. – ATIPP Office Submission, Page 16
 - Consider amending s. 19(1)-19(4) to include additional time during the processing of a request to consult with a third party (this suggestion may not be necessary if suggestions under section eight of this submission are considered). – ATIPP Office Submission, Page 16

- This will also unnecessarily delay access. In many cases, third parties can be identified shortly after receipt of a request, and if notification is required it can be done at that 8 time. If additional time is necessary, an application to the Commissioner can be made for an extension. – OIPC May 14, 2021 Supplemental Submission, Page 7
- Consider amending the Act to replace the word “intending” with “considering” – ATIPP Office Submission, Page 16
 - We disagree. “Considering” is a decidedly lower threshold. Any time information about a third party appears in a record, the public body has to consider it. Intending to release information means that, based on the public body’s assessment, the information must be released. – OIPC May 14, 2021 Supplemental Submission, Page 6
- If it is determined that the current wording of the Act should remain, consider clarifying what is meant by “intending”. – ATIPP Office Submission, Page 16
- ATIPP Office Recommendation 6.2: Consider repealing subsections 19(1)-19(4) of the Act. – ATIPP Office Submission, Page 17
- ATIPP Office Recommendation 6.3: If subsection 19(1)-19(4) remain, consider amending the Act to disjoin notification requirements under subsection 19(5) from subsection 19(1). This would allow public bodies to bypass the notification under subsection 19(1) where it is deemed unwarranted. – ATIPP Office Submission, Page 17
- ATIPP Office Recommendation 6.4:
 - Consider amending subsection 19(1) of the Act to allow a public body to “consult” with a third party where they are considering whether section 39 applies rather than “notify”.
 - Consider amending subsection 19(1) to be discretionary rather than mandatory. – ATIPP Office Submission, Page 18
- ATIPP Office Recommendation 6.5: Consider amending the Act to clarify when notification under s. 19 is required and what is meant by “might be excepted from disclosure.” – ATIPP Office Submission, Page 20
- Digital Government and Service NL Recommendation 10.3: s. 19 of the Act should be amended to require disclosure to a third party and provide them with 15 days to respond prior to the release of their information. – DGSNL Submission, Page 7
- Todd Stanley Recommendation 2.1: The interaction of subsections (2) and (6) of this section combined with s. 16 can cause confusion. While subsection (2) states that providing notice to a third party under this section does not suspend the time for a reply under section 16(1), it also does not clearly specify that the reply which is required to be provided under subsection (6) will satisfy the obligations under section 16. The result is some ambiguity as to how the timing and notice provisions align. – Todd Stanley Submission, Page 2
- Todd Stanley Recommendation 2.2: It is suggested a more consistent approach would be a requirement on a third party to provide the head of the public body either with notice of a court action under s. 53, or copying them on a complaint under s. 42 (both of which are practically likely to occur in any event), and specifying the head has the authority to release the records at the end of the 15 days if not in receipt of either. This would remove the onus from the head to determine if the third party is pursuing a remedy. – Todd Stanley Submission, Page 2

- Todd Stanley Recommendation 2.3: The concern is that this assessment with respect to whether there is a “reason to believe” records that are planned to be disclosed may fall under s. 39 or 40 is carried out by the public body in isolation, without input from the third party who supplied the information. With respect to the application of section 39, this raises the obvious issue of the competency of the public body to determine what information supplied by a business might meet the tests in s. 39, including whether release may reasonably be expected to be harmful to the interests of that business if released. It presumes and requires a level of expertise and familiarity of a public body with the business and business environment of the third party which submitted the information... - Todd Stanley Submission, Page 2
- Department of Finance Recommendation 1: Suggest changes to the wording of s. 19 (1)... Wording assumes that the Department is able to judge what is harmful to business interests of any third party. It is suggested that the third party always be included and consulted on its information provided to government. – Dept of Finance Submission, Page 1
- OIPC Response: In practice, notice provides an opportunity for a third party to object and provide any argument or evidence in support of its position against release of the information. It is our view that if the notification in section 19 were broadened that it would have no measurable impact on the protection of third party business information. It would, however, cause an increase in complaints and court appeals, slowing down the access to information process.

Provision of information [s. 20]

- Posting of Access Requests:
 - Todd Stanley Recommendation 3: Assuming that the posting of access request responses is to be a continued practice by public bodies, it is suggested thought be given to provide express authority for same in the legislation, to provide protection to public bodies and their officials and employees in the process. – Todd Stanley Submission, Page 3
- Native Format:
 - Anton Oleynik Supplemental Recommendation 1: A definition of ‘native’ format is added to Section 2: ‘a format that does not materially change the electronic information that was originally created, sent or received. In the alternative: in the requested format’. – Anton Oleynik Feb 17, 2021 Supplemental Submission, Page 8
 - Anton Oleynik Recommendation 4: s. 20(2) be amended as ‘the head of the public body shall produce a record in native format for the applicant where...’ and the definition of ‘native format’ added to Section 2: ‘the format in which it was made, sent or received or in a format that does not materially change the electronic information that was originally created, sent or received’. – Anton Oleynik Submission, Page 8
 - MUN Recommendation 13: Memorial University asserts that the ATIPPA 2015 does not and should not afford a right of access to records in native format and recommends that no change be made to the legislation in that regard. – MUN Feb 12, 2021 Supplemental Submission, Page 7
 - Anton Oleynik Supplemental Recommendation 1 and 2: ... the following changes in the ATIPPA would help reduce the scope of misinterpretation of what exactly the right of access to a record entails:

- 1. A definition of ‘native format’ is added to Section 2: ‘a format that does not materially change the electronic information that was originally created, sent or received. In the alternative: in the requested format’.
- 2. Section 8(1) then then could read: ‘A person who makes a request under section 11 has a right of access to a record in native format in the custody or under the control of a public body, if requested.’
– Anton Oleynik Feb 17, 2021 Supplemental Submission, Page 8
- OCIO/ATIPP Office Response to Native Format Letter: Given the inherent risks, additional significant work required, potential limited additional value, and the current flexibility in the Act, is not necessary to add another clause, such as the proposed 20(x) to the legislation. The OCIO, along with the ATIPP Office, opposes the inclusion of a mandatory legislative requirement to provide records in native format, as it would create the potential for security and personal information breaches. Rather, the normal practice, to produce in a native format upon request is sufficient. Where records require redaction or metadata is requested, the Coordinator may need to discuss alternate approaches with the applicant. The ATIPP office specifically notes that if the Review determines that the legislation should be amended to include reference to disclosure of records in their native format, consideration be given to making any such provision discretionary and based on reasonableness. – OCIO Mar 8, 2021 Supplemental Submission, Page 7

Disregards [s. 21]

- Increase time limit:
 - OIPC Recommendation 16.6: Amend s. 21(1) to increase the timeline for an application to the Commissioner for approval to disregard an access request from 5 to 10 business days. – OIPC Submission, Page 72
 - Department of Environment, Climate Change and Municipalities Recommendation 2: It is requested that consideration be given to recommending a longer period of time for Departments to make the case for a disregard to the OIPC. – ECCM Submission, Page 2
 - Department of Education Recommendation 4: Consideration should also be given to extending the time to disregard a request. – Dept of Education Submission, Page 2
 - City of Mount Pearl Recommendation 2.1: Extending the five-day time limit to seven or ten business days will allow the Public Body a greater opportunity to understand all aspects of the request to determine if they wish to seek a disregard. – City of Mount Pearl Submission, Page 5
 - City of Mount Pearl Recommendation 2.2: It is also recommended that the requested timeline be extended by the same number of days it takes the Commissioner’s office to provide a response to the request for disregard. – City of Mount Pearl Submission, Page 5
 - Department of Tourism, Culture, Arts and Recreation Recommendation 5: Five business days is not adequate time to resolve clarification issues with applicants or receive adequate information on the scope and complexity of some requests. The department proposes the ability to file a disregard request with the OIPC be 10 business days, with the ATIPP process clock being stopped until a response from OIPC is received. – TCAR Submission, Page 2

- City of St. John's Recommendation 16: Five business days is not sufficient to properly complete an application request for a disregard... [Not setting a time limit is a] much more reasonable approach would allow ATIPP Coordinators sufficient time to assess the need for and to apply for a disregard. – City of St. John's Submission, Page 1
- Executive Council Recommendation 8: The deadline for submitting a request to disregard to the OIPC should be extended to no later than day 15. – Executive Council Submission, Page 12
- IET Recommendation 4: Eliminate/Extend the time period for disregards to be granted – IET Submission, Page 5
- ATIPP Office Recommendation 7.1: Consider amending the Act to provide additional time for a public body to apply to the OIPC for approval to disregard a request (perhaps day 15 similar to extension timelines). – ATIPP Office Submission, Page 22
- Digital Government and Service NL Recommendation 5: It is recommended the Act be amended to increase the time limit to request a disregard from five days to 15 days. – DGSNL Submission, Page 4
- Eastern Health Recommendation 2: Eastern Health recommends increases to legislated timeframes as detailed in the recommendations section... Timeframe for Disregarding a Request be Increased from 5 Business Days to 10 Business Days. – HCS Submission, Page 13
- Combined disregards:
 - City of Mount Pearl Recommendation 3: When an individual, or group of individuals, submit the same or similar requests that a public body wishes to apply to the Commissioner for a disregard, instead of requiring each disregard request be submitted and evaluated individually, it would be more efficient if the Public Body could draft one submission. The Commissioner could evaluate the disregard requests that meet such criteria rather than individually. – City of Mount Pearl Submission, Page 5
- Suspending time limit for OIPC response:
 - Digital Government and Service NL Recommendation 6: The Act should be amended to allow for the suspension of the time limit while waiting on a reply from the OIPC. This would remove the pressure for a coordinator to continue to work on a request that may be disregarded. – DGSNL Submission, Page 4
 - Department of Transportation and Infrastructure Recommendation 3: ...five business days is often insufficient time to determine if a request will meet the threshold for a disregard as required in the Act... If the clock can be paused during [clarification] discussions with the applicant... the department would have sufficient time to make that determination. An alternative suggestion would be to consider allowing ten days to submit a request. – TI Submission, Page 3
 - (See also Eastern Health Recommendation 3 in Extension of time limit Recommendations below)

- OCIO Recommendation 1b(i): It is recommended that, once the coordinator has expressed to the OIPC that they are going to request a disregard, the clock would not run for the few days it takes to prepare the disregard request. Once a decision is made, time will resume. Additionally, an expedited process should apply to requests from applicants who abuse the ATIPPA request process. – OCIO Submission, Page 2
 - OIPC Response: We do not support an expedited application process. That being said, applicants who abuse the 33 right of access typically have a track record, and our experience is that ATIPP Coordinators who are dealing with such an applicant are able to retain and simply add new evidence to former applications for approval to disregard. In that sense, some applications of this nature are able to be expedited, but not in a formal way. – OIPC May 14, 2021 Supplemental Submission, Pages 32-33
- Documents already in applicant’s possession
 - MUN Recommendation 6: Memorial University recommends that the ATIPPA, 2015 should be amended to permit a public body to refuse to provide records where there is evidence that the applicant already has them in their possession. – MUN Submission, Page 3
 - Anton Oleynik Response: By permitting ‘a Public Body to refuse to provide records where there is evidence that the applicant already has them in their (sic) possession’, as recommended by MUN,⁵¹ the legislator will deprive the applicant and the OIPC of an opportunity to apply a reliable and objective test. Knowing that the applicant is unable to establish a reasonable suspicion that the Public Body is withholding a record, the Public Body will likely claim that no responsive record has ever existed. – Anton Oleynik Submission, Page 19
 - OIPC Response: There may be other reasons why such a provision as proposed by Memorial is not commonly found in access to information statutes, but unless a public body has received an access to information request and disclosed the records through that process, it can be difficult to establish that an applicant already has the records... Extending the Act beyond its current bounds for the circumstances described by Memorial, which are not particularly common across public bodies as a whole, is unwarranted and unnecessary. – OIPC May 14, 2021 Supplemental Submission, Page 33
- Anton Oleynik Recommendation 6: Section 21(1) of the ATIPPA could be amended in the following manner: ‘The head of a public body may, not later than 5 business days after receiving a request, apply to the commissioner for approval to disregard the request copying the application on the applicant. The Applicant has two business days to respond, if s/he chooses to do so’. – Anton Oleynik Submission, Page 21
- City of Corner Brook Recommendation 16: The Commission should have guidelines that apply to all these requests to make their responses consistent to all public bodies and all requests. Particularly s. 21(a) “unreasonable interference” and s. 21(c)(iii) “excessively broad” are quite vague and need to be better defined in the *Act* or have corresponding guidelines for their use. – City of Corner Brook Submission, Page 4
- City of St. John’s Recommendation 2: s. 21(1)(c), the grounds under which a request would amount to an abuse of the right to make a request, would very much benefit from expansion as these are

left entirely up to interpretation. For instance, the *Act* should include mechanisms that allow public bodies to evaluate frivolous or vexatious requests... – City of St. John’s Submission, Page 1

- (See also City of St. John’s Recommendation 3 in ‘Purpose [s. 3]’ recommendations above)
- (See also Executive Council Alternative Recommendation 3 in ‘Purpose [s. 3]’ recommendations above)
- IET Recommendation 6d: Lessen the administrative work required by the OIPC to grant a disregard... the administrative work associated with requesting [a disregard] is burdensome... (eg. [the wording of the request may not require a records search to determine reasonableness of the request]). – IET Submission, Page 7
- (See also ATIPP Office Alternative Recommendation 2.1 in ‘Application [s. 5]’ recommendations above)
- (See also ATIPP Office Alternative Recommendation 7.2 in ‘Frivolous and vexatious applicants’ recommendations below)
- (See also ATIPP Office Recommendation 16 in ‘Municipalities’ recommendations below)

Extension of time limit [s. 23]

- City of Corner Brook Recommendation 17: The Commissioner should have guidelines as to certain circumstances when it would be considered “reasonable and necessary.” For example, number of pages in responding documents, exemptions applicable, TP notices/permissions for release required, vetting required. – City of Corner Brook Submission, Page 4
 - OIPC Response: While the OIPC does have guidelines for requesting a time extension, it is not feasible or advisable to make this an overly prescriptive statutory provision, because that would remove the ability of the Commissioner to allow for differences in public body capacity and changing circumstances. – OIPC May 14, 2021 Supplemental Submission, Page 32
- RNC Recommendation 2: The RNC recommends that ATIPPA, 2015 be updated to better allow for the extension of response times only where unique and justified circumstances exist after business day 15. – RNC Submission, Page 3
- City of St. John’s Recommendation 15: [Consideration should be given to allowing] the public body to extend without first seeking permission. The majority [of other jurisdictions] allow the public body to extend 30 days with written notice given to the applicant... – City of St. John’s Submission, Page 1
- Executive Council Recommendation 9: Reverting back to a similar process prior to *ATIPPA, 2015*, in relation to extensions is suggested. A public body should be able to extend the time up to an additional 20 business days on their own without engaging the OIPC. However, if the requirement for public bodies to apply to the OIPC for extensions is retained, the time in which to do so should be up to and including day 20, rather than day 15. As always, consideration should be given to balance the applicant’s rights to a timely response, the logistics of actually processing ATIPP requests, and oversight by the OIPC. – Executive Council Submission, Page 12

- IET Recommendation 5a: Eliminate/Extend the time period extensions can be granted. – IET Submission, Page 5
 - OIPC Response: The extension request process is not onerous, and it involves providing basic information about the status of the request that Coordinators should have at hand. For the vast majority of access requests, Coordinators can readily determine at day 15 whether they are likely to need an extension. In those few circumstances where it is difficult to assess, Coordinators can submit an extension request at day 15 and avail of any extension granted if needed. Section 24 is also available should extraordinary circumstances arise past day 15 to warrant an extension. – OIPC May 14, 2021 Supplemental Submission, Page 30
- IET Recommendation 5b: Grant coordinators the ability to approve a one time, per request 5-10 day time extension. When a coordinator identifies the need for an extension, they could be given authority to grant themselves a short time extension (such as 5 or 10 days) with permission from the head of the public body and with a written notice to the OIPC. Any request beyond this would require approval from the OIPC. – IET Submission, Page 6
- IET Recommendation 5c: Bank requests when a set threshold is met for active requests. Similar to the OIPC’s banking policy, the ATIPP Coordinator may be given authority to park” requests when a certain threshold of active requests is reached. This threshold may be different for each public body depending on their level of normal activity and internal resources...This parking would be used at coordinator’s discretion and does not limit incoming requests. – IET Submission, Page 6
 - OIPC Response: In our view, that would be difficult to administer across public bodies. An alternative that might be considered would be an amendment to section 21 allowing the Commissioner to approve a public body’s decision to disregard a request or requests because of the number of other requests that have already been filed by the same applicant. – OIPC May 14, 2021 Supplemental Submission, Page 35
- IET Recommendation 6a: Revise the OIPC time extension policies (eg. This is a significant amount of administrative work... The OIPC does not provide reasoning and there the OIPC does not provide reasoning to the department in the approval or denial of an extension request, and there appears to be variability in the way that extensions are granted.) – IET Submission, Page 6
- (See also ATIPP Office Recommendation 3.3 in Request abandonment and applicant duty to assist recommendations below)
- ATIPP Office Recommendation 8.1: Consider amending the Act to allow public bodies to apply short extensions (up to 10 days), under specific circumstances, without the requirement for approval from the OIPC. Any additional extensions will continue to require OIPC approval. This should balance the overall desire to ensure public bodies are responding without delay, and the practical reality of processing requests. If there is concern for potential abuse by public bodies, perhaps there could be an auditing function specific to extensions added to the OIPC’s powers, where they can do “spot-checks” periodically to ensure extensions are being used appropriately. However, any such amendment regarding the latter should take into consideration what type of administrative work it would require. The purpose of our suggestion is to reduce the administrative workload, not add to it or replace the current process with an equally burdensome one. – ATIPP Office Submission, Page 25
 - OIPC Response: If such a process were to be instituted, it is possible that we may gain some insight into whether those extensions are being applied unnecessarily, but that will be a retrospective view, and it will not assist the applicants who would have already experienced

the delay. Given that the extensions would be permitted by the proposed statutory amendment, it is also unclear what leverage would exist for the Commissioner to rectify any concerns. - OIPC May 14, 2021 Supplemental Submission, Page 31

- ATIPP Office Recommendation 8.2: Consider amending s. 23 of the Act to require a public body to submit a request for extension not later than day 15 unless the OIPC deems it reasonable for it to be submitted at a later date. What is “reasonable” would be at the discretion of the OIPC. While there may be cases where they do not deem it reasonable to submit a request after day 15 it would provide the OIPC with flexibility on the matter, which the Act currently does not allow. Note: The Office felt it would be more appropriate to amend this section rather than section 24 (extraordinary circumstances), however, it is possible that an amendment to that section would be more suitable. – ATIPP Office Submission, Page 26
 - OIPC Response: Section 23 already allows the Commissioner to approve extensions where it is necessary and reasonable to do so – there is no need to prescribe specific considerations in the statute. – OIPC May 14, 2021 Supplemental Submission, Page 30
- ATIPP Office Recommendation 8.3: Consider amending the Act to require that the OIPC response to the public body when they either deny a request for extension or partially approve one, include a detailed overview of how they came to this determination. – ATIPP Office Submission, Page 27
 - OIPC Response: We must note that we do only have 3 business days to respond and that we disagree that we do not provide adequate detail in our response. When declining an extension, we typically provide a brief explanation noting the key factors in our decision. We will review the level of detail in our responses and consider how we could provide additional detail that could be beneficial, but do not believe a statutory amendment would be necessary or helpful. – OIPC May 14, 2021 Supplemental Submission, Page 31
- Nalcor Recommendation 3: ... allow for extensions where the Access and Privacy Officer engages directly with the Applicant in terms of a possible limited extension request (maximum of 10 days for example). The process would work by having the Access and Privacy Officer request an extension directly from the Applicant. This will allow for a process that would provide a limited number of extension days without the need for OIPC involvement or approval. The consent of the Applicant, or lack thereof, would need to be documented. In cases where the Applicant denies the extension, the normal process with the OIPC would ensue. – Nalcor Submission, Page 9
- Digital Government and Service NL Recommendation 4: The Act should be amended to provide 30 business days to complete a request and allow the public body to self-approve an additional 30 business day time limit extension, similar to other jurisdictions... If an additional time extension is needed, OIPC approval would be required. – DGSNL Submission, Page 3
- Department of Finance Recommendation 4: Suggest revisions to s. 23 of ATIPPA for the legislation to provide authority for public bodies to extend up to 10 business days without seeking permission from the OIPC. However, anything over 10 business days to be approved by the CRC. – Dept of Finance Submission, Page 2
- OCIO Recommendation 1a: It is recommended that, once the coordinator has expressed to the OIPC that they are going to request an extension, the clock would not run for the few days it takes to prepare the extension request. Once a decision is made, time will resume. – OCIO Submission, Page 1
 - OIPC Response: The form we use is straightforward, and an ATIPP Coordinator responding to a request requiring a short extension in the range of 5 to 20 business days should be able

to complete the application in minutes with the information that would normally be at his or her fingertips. – OIPC May 14, 2021 Supplemental Submission, Page 30

- Department of Health and Community Services Recommendation 4: One consideration to ensure efficiency of such operations would be to enshrine the legislative authority of the public body to extend the maximum timeline. – HCS Submission, Page 5
- Eastern Health Recommendation 3: Eastern Health recommends increases to legislated timeframes as detailed in the recommendations section... Final response Timeline be Suspended for Application for Disregards and Extensions – HCS Submission, Annex A, Page 14
- Eastern Health Recommendation 5: Extend the Timeframe and Vary the Process for Requesting an Extension. Eastern Health is proposing, in addition to extending the timeframe for extension requests up to the final response date, varying the process for requesting extensions to allow for, and in addition to the current process, an automatic onetime extension of not more than 10 business days to be determined by the public body after discussion with the applicant and subsequent notification to the applicant and the OIPC. – HCS Submission, Annex A Page 8
- Labrador-Grenfell Health Recommendation 2: We recommend the possibility of an automatic extension for a substantial ATIPPA request. – HCS Submission, Annex C, Page 2
- OIPC Response: The ATIPP Office has also suggested amending the statute to provide a period longer than 20 business days for small municipalities to respond to access requests. Some access requests are quite straightforward, others may be more difficult. While the context means that this spectrum of simple to complex is different for small public bodies, it remains true. Any public body, including a small municipality, can apply to the OIPC for an extension, and the capacity of the public body to respond will certainly be considered. – OIPC May 14, 2021 Supplemental Submission, Page 29
- OIPC Response: Several public bodies have called for a return of public bodies being able to extend their own deadlines... While applying for an extension may be an inconvenience for public bodies, in this province it has provided a touchpoint for effective oversight and helped to ensure that deadlines are being adhered to, which ultimately protects the rights of citizens who use the Act... It is our view that where there is a time limit that can easily be extended, the extended time invariably becomes the new time limit. – OIPC May 14, 2021 Supplemental Submission, Page 30

Costs [s. 25 and Costs regulations]

- No fees:
 - Centre for Law and Democracy Recommendation 1.1: s. 25(2) of *ATIPPA* and s. 3 of the fee rules should be removed. – Centre for Law and Democracy Submission, Page 5
- Application fees:
 - Department of Education Recommendation 2: It is felt that even a modest application fee would help reduce the number of frivolous requests without compromising a request that is consistent with the purpose of *ATIPPA*. However, an application fee should not apply to requests to correct personal information. – Dept of Education Submission, Page 2

- RNC Recommendation 13: It is recommended by the RNC that a standard base fee for access requests be implemented in the legislation to help offset the significant strains that are sometimes endured by a public body in administering the Act. Additional costs may be added as seen appropriate by the public body as set out by the Act. – RNC Submission, Page 14
- NL English School District Recommendation 6: The District feels that an application fee should be re-established in order to deter nuisance requests. A fee schedule could be implemented that would allow additional costs to applicants with numerous concurrent requests. – NLESD Submission, Page 3
- Executive Council Recommendation 11: Consider amending *ATIPPA, 2015* to reinstate authority for a public body to charge a fee for applications under the legislation, except those related to a person's own personal information, and authority to waive fees in appropriate circumstances. – Executive Council Submission, Page 14
- MUN Recommendation 1.1: Memorial University recommends the restoration of an application fee. – MUN Submission, Page 3
 - Anton Oleynik Response: It looks like that MUN attempts to rehear the issue of fees without demonstrating what exactly has changed since the 2014 Statutory Review and why charging fees can be now deemed as an appropriate practice. – Anton Oleynik Submission, Page 17
- Digital Government and Service NL Recommendation 1: It is recommended the Act be amended to introduce a nominal \$5.00-\$25.00 fee for an access to information request, exemptions to the fee could be provided to individuals where deemed it would interfere with an individual's ability to access to Information. This would apply to general access requests only and not requests for personal information. This small fee may reduce frivolous requests to the department and help offset the cost of Access to Information and Privacy Protection (ATIPP). – DGSNL Submission, Page 1
- Eastern Health Recommendation 6: Amendment to the Cost schedule to allow for the introduction of a nominal application fee (\$5) to reduce repetitive requests that result in drawing resources away for viable requests. – HCS Submission, Annex A, Page 9
- OIPC Response: In our experience, a nominal fee of five or ten dollars is simply another administrative burden for Coordinators. We believe it is unlikely to deter the most determined, frequent requesters – the very people it is supposed that such a fee is intended to target... One of the goals of the 2014 ATIPPA review was to make the Act more user-friendly, which it has done. We are opposed to this recommendation as it would represent a regression away from user-friendliness. – OIPC May 14, 2021 Supplemental Submission, Page 36
- Expanding applicable fees:
 - CNA Recommendation 8: Revise the current fee structure to include more of the work involved in completing an ATI request. – CNA Submission, Page 6
 - City of Corner Brook Recommendation 5 and 18: Consideration to implementing a fee structure for chargeable time... Perhaps a fee structure can be implemented based upon the number of pages responsive to the request... Public body should be able to charge time for

reviewing/vetting documents, not just “locating” them... – City of Corner Brook Submission, Pages 1 and 4

- Department of Tourism, Culture, Arts and Recreation Recommendation 2: This department strongly advocates the implementation of a minimal fee to reduce frivolous and vexatious requests... Additionally, we recommend that each completed request should contain a sentence indicating to the applicant the estimated cost to the taxpayer/treasury of processing that particular request. This can be done by recording the number of hours spent on processing the request, time of subject matter experts, legal counsel and Executive branch review for disclosure. Requests for personal information of an individual would be excluded from such an application fee. – TCAR Submission, Page 2
- City of St. John’s Recommendation 17: The current cost schedule is effective for most requests. That being said, there are requests that are exceedingly large and require a significant amount of resources to complete. Those requests should have a cost associated with providing the records. In allowing a modest fee for only the locating of records, the Act has failed to recognize the realities of the electronic age and the digital information management practices of today. – City of St. John’s Submission, Page 5
- MUN Recommendation 1.2: Memorial University recommends amendment of s. 25(3) to permit charges for certain types of activities. – MUN Submission, Page 3
- ATIPP Office Recommendation 9: Consider amending the Act to allow public bodies to charge for the time it takes to process a request, in addition to the time it takes to locate the records... - ATIPP Office Submission, Page 27
- OIPC Response: In our view, high fees generally would be a deterrent to individuals attempting to use the right of access to information. Certainly it must be noted that the number of requests, particularly from individuals, has increased substantially since fees were reduced under ATIPPA, 2015.... In our view... a reintroduction of costs across the board would be a mistake. – OIPC May 14, 2021 Supplemental Submission, Page 37
- Fee Thresholds (eg. page numbers):
 - Centre for Law and Democracy Recommendation 1.2: Consideration should be given to adding language to s. 25 of ATIPPA and the fee rules so that the first 20 pages are provided to requesters for free. – Centre for Law and Democracy Submission, Page 5
 - City of Corner Brook Recommendation 5 and 18: Perhaps a fee structure can be implemented based upon the number of pages responsive to the request... – City of Corner Brook Submission, Page 1 and 4
 - Western Health Recommendation 1: ...we ask that consideration be given to a review of the applicability of the current cost structure to the types of requests that public bodies are receiving... - HCS Submission, Annex B, Page 2
 - Labrador-Grenfell Health Recommendation 2: We recommend consideration of a revised fee schedule to reflect the cost incurred by the regional health authority for large requests. – HCS Submission, Annex C, Page 2
- Municipalities

- ATIPP Office Recommendation 17: Consider amending s. 25 of the Act to allow very small municipalities (based on either population or budget), or those which receive a significant number of requests from one applicant, to charge reasonable fees related to material resources expended processing requests on a cost recovery basis. - ATIPP Office Submission, Page 40
- Fee schedule:
 - Department of Finance Recommendation 5: Suggest including a clearly defined listing in the legislation of what types of fees can be charged to an applicant. An example can be found in the Province of Alberta under the Schedule 2 of FOIP... - Dept of Finance Submission, Page 2
- (See also ATIPP Office Alternative Recommendation 2.1 in 'Application [s. 5]' recommendations above)

Estimate and waiver of costs [s. 26]

- MUN Recommendation 1.3: Memorial University recommends clarification in s.26 that the Commissioner's decision under s. 26 is final and cannot be the subject of a further Complaint to the Commissioner or appeal to Court under s. 55. – MUN Submission, Page 3
- Anton Oleynik Recommendation 6: ...the decision to charge the fees [should be reviewable] by the OIPC and/or appeal... – Anton Oleynik Submission, Pages 17-18
 - [In those circumstances where “the decision to charge the fees was an improper attempt to delay the response by circumventing due procedure.”]
 - [Without a waiver application]
 - [There should be timelines for public bodies to provide cost estimates]

Cabinet confidences [s. 27]

- Ed Hollett Recommendation 1: ...amend ATIPPA (2015) to delete the reference to an Order of cabinet in the definition of what constitutes a cabinet record. – Ed Hollett Submission, Page 13
 - Executive Council Response: Orders in Council themselves are not "cabinet records" pursuant to ATIPPA, 2015 as they are the records of the Lieutenant-Governor in Council rather than records of the cabinet. – Executive Council Jan 5, 2021 Supplemental Submission, Page 1
- Ed Hollett Recommendation 2: ... admonish the Executive Council to restore the pre-2012 practice of disclosing Orders-in-Council. – Ed Hollett Submission, Page 13
 - Executive Council Response: Taken collectively, the above provisions of ATIPPA, 2015 can produce an outcome whereby OCs less than 20 years old would require the removal of any information that meets the definition of "cabinet record" whereas those in excess of 20 years old would not require the removal of such information. – Executive Council Jan 5, 2021 Supplemental Submission, Page 2
- ATIPP Office Recommendation 10: Consider amending s. 27(1) to reduce the number of definitions for Cabinet records. – ATIPP Office Submission, Page 30

Local public body confidences [s. 28]

- City of Mount Pearl Recommendation 5: Clarification [of s. 28(1)(c)] as to whether Committee meetings of the Public Body, which may consist of elected officials are considered as part of the Local Public Body Confidences provision in relation to the Act is needed. – City of Mount Pearl Submission, Page 6
- ATIPP Office Recommendation 18: Consider amending s. 28 to clarify whether privileged meetings of a standing or special committee established under s. 25 of the *Municipalities Act, 1999*, can be protected under s. 28 of the Act. – ATIPP Office Submission, Page 41

Policy advice or recommendations [s. 29]

- RNC Recommendation 7: The RNC recommends that *ATIPPA, 2015* be updated to include an exception to disclosure that allows for the refusal of the release of information that is proven to be inaccurate. Additions to the section can be made to ensure that the information is corrected at the time of the request. – RNC Submission, Page 7
 - OIPC Response: The state of that knowledge at the time may be important information for a requester. If a public body is concerned that inaccurate information exists in a record which is being disclosed to an applicant, the public body can provide that explanation in its letter of response. – OIPC May 14, 2021 Supplemental Submission, Page 40
- City of St. John's Recommendation 6: The matter of draft reports should be addressed in this review. Section 29 essentially allows public bodies to withhold draft reports if they are not finalized, while requiring the release of completed ones... However, the OIPC has broadly interpreted s. 29 as protecting a report while it is still in draft stages but once the report is published, draft material should be released assuming no other sections apply. – City of St. John's Submission, Page 2

Legal Advice [s. 30]

- CBA NL Recommendation 3: ... we respectfully request that the legislation be amended to specifically include settlement privilege within the scope of the section for legal advice, the s. 30(1) exception respecting solicitor-client privilege and litigation privileged records. – CBA NL Submission, Page 7
- Law Society of NL Recommendation 2: The Law Society respectfully submits that the Committee should recommend that issues regarding the disclosure of solicitor-client privilege should be addressed by the Court, not the Commissioner. – LSNL Submission, Page 6

Disclosure harmful to law enforcement [s. 31]

- IT Security:
 - OCIO Recommendation 4: Based on the position and best practices of security professionals across the country, including the OCIO, it is recommended that stronger, more inclusive language be included in the ATIPP legislation to provide for the protection from disclosure of information respecting government's IT systems. This would be accomplished by having a separate section in ATIPP legislation dedicated to IT security protection. – OCIO Submission, Page 4

- OIPC Response: While section 64 of ATIPPA, 2015 requires the head of a public body to take steps that are reasonable in the circumstances to protect personal information, it should be borne in mind that the security of information that is not personal information is outside the scope of ATIPPA, 2015. This is more properly the purview of information management... – OIPC May 14, Supplemental Submission, Page 3
- MUN Recommendation 12: Based on the position and best practices of security professionals across the country, including the Government of Newfoundland and Labrador Office of the Chief Information Officer, Memorial University recommends stronger, more inclusive language in the ATIPPA to provide for the protection from disclosure of information respecting IT systems. This would be accomplished by having a separate section in ATIPPA dedicated to IT security protection. – MUN Submission, Page 8
- Newfoundland and Labrador Centre for Health Information Recommendation 2: As referenced under Heading 2.1 above, reference should be explicitly made and protections afforded to IP address information. – HCS Submission, Annex D, Page 4

Confidential evaluations [s. 32]

- NL Health Research Ethics Authority Recommendation 1: 32 (e) includes the evaluation of research conducted by employees affiliated with an educational body, but not that of private/industry researchers. An exemption for all research reviewed under Section 9 of the HREA Act could be considered under section 32 (e). This would cover all reviews conducted under the HREA Act including Section 11 (Monitoring), 13 (Reconsideration), and 17 (Appeals). Alternatively, might HREB review be considered under the ATIPPA exempt bodies? This exemption could be applicable only to HREB research review such as that currently included in 32(e). It would not have to apply to the HREA office. – HCS Submission, Annex E, Page 1

Workplace investigations [s. 33]

- OIPC Recommendation 2.1: Amend s. 33 to provide that certain other exceptions in the Act are to be applied to the records before any disclosure, regardless of s. 33. Chief among those would be:
 - s. 27 (cabinet confidences)
 - s. 30 (legal advice)
 - s. 31 (law enforcement), and
 - s. 37(1)(a) (individual or public safety) – OIPC Submission, Page 15
- CNA Recommendation 6: s. 33 of the *ATIPPA* should be changed to allow for the consideration of other exceptions to disclosure. Eg. s. 37. – CNA Submission, Page 5
- City of Corner Brook Recommendation 19: Should highlight that [s. 33] to provide does not supersede other exemptions to provision of information, particularly the exemptions in s. 30, s. 37, and s. 40 – City of Corner Brook Submission, Page 4
- OIPC Recommendation 2.2: Consider amending s. 33 to limit disclosure of records relating to a workplace investigation such that the right of access would commence *after* a workplace investigation has been completed, *before* any resulting discipline is imposed or corrective action is taken. The right of access would be enduring thereafter. – OIPC Submission, Page 18

- OIPC Response: We recommend to limit the temporal aspect of section 33 so that the workplace investigator can decide, while the investigation is ongoing, what information to release to whom and when. – OIPC May 14, 2021 Supplemental Submission, Page 8
- OIPC Recommendation 2.3: Consult with public bodies on whether s. 33 should be broadened to apply to harassment investigations beyond the employment context. [eg. Boards of Directors] – OIPC Submission, Page 19
- City of Mount Pearl Recommendation 6: It is our recommendation that this section of the *Act* be removed entirely... If this section of the *Act* must remain, it should at least be amended to something like what is in the *New Brunswick Right to Information and Protection of Privacy Act*... Further, outlining that the investigator's notes fall outside of the section, while the investigator's findings would fall within, could protect Complainants/Witnesses, while also allowing the Subject to respond appropriately. – City of Mount Pearl Submission, Page 8
- NL English School District Recommendation 4: The terms 'complainant' and 'respondent' are not clearly defined. Not all workplace investigations have a 'complainant' and 'respondent'... Consideration should be given to defining these terms or reworking the entire section to more accurately reflect what the intention is here with respect to who can have access to information from such an investigation. – NLESD Submission, Page 2
- NL English School District Recommendation 5: Consideration should be given, however, to limiting the timing of the release so that such information can only be released once the investigation is completed. – NLESD Submission, Page 3
- City of St. John's Recommendation 10: The following [s. 33] issue should be addressed: The relationship between s. 33 and 37 as s. 33 potentially negates the protections to individual or public safety offered by s. 37. – City of St. John's Submission, Page 3
- City of St. John's Recommendation 11: The following [s. 33] issue should be addressed: The absence of considerations regarding whistleblower protections. – City of St. John's Submission, Page 3
- City of St. John's Recommendation 12: A recent Commissioner's report (A-2019-004) found that MHAs are not "employees" as defined by the Act and therefore section 33 did not apply... As an elected official could be party to an investigation into their conduct in the workplace, the Act's definition of workplace investigation should be adjusted accordingly to reflect that possibility and its own purpose. – City of St. John's Submission, Page 3
 - OIPC Response: The City's recommendation should be implemented for elected officials except MHAs who are subject to a separate policy and statutory regime – OIPC May 14, 2021 Supplemental Submission, Page 9
- Executive Council Recommendation 12: Remove subsection 33(3) from legislation. Alternatively, modify the section to indicate draft documents related to an investigation are protected from disclosure. Requests pertaining to a Harassment-Free Workplace Investigation should not be permitted as the current Harassment-Free Workplace Policy (effective June 2018) has a prescriptive process, allowing for transparency and release of information throughout the process to the parties involved. Section 33 should make the distinction between harassment-free workplace investigations and other workplace investigations. – Executive Council Submission, Page 15
- Executive Council Recommendation 13: Subject to the preceding suggestion regarding s. 33 and should s. 33 be retained in the legislation, review s. 33 and 37 to provide clear guidance regarding

the interplay between these sections and situations in which it is appropriate for section 37 to override s. 33. – Executive Council Submission, Page 15

- MUN Recommendation 3: Memorial University recommends that an amendment to s. 33 provide that records pertaining to a workplace investigation be withheld until after the investigator’s report has been issued. – MUN Submission, Page 3
- ATIPP Office Recommendation 11: Consider amending s. 33(3) of the Act, to remove the requirement for disclosure. It could be amended to not allow the exception to be used if the applicant is a party to the investigation; however, a public body can continue to use other exceptions to disclosure. Alternatively, perhaps s. 33(3) could have similar provisions to section 9 of the Act (the public interest override). This section lists the exceptions to disclosure which it overrides (i.e. public bodies cannot withhold information under these exceptions if the public interest outweighs their purpose). If an exception is not listed, the public body can continue to use it. If this alternative was chosen, the Office would suggest that consideration be given to allow mandatory exceptions to disclosure, along with sections 30, 31 and 37 to continue to be applicable in the case of records relating to a workplace investigation where the applicant is a party to the investigation... – ATIPP Office Submission, Page 32
- Todd Stanley Recommendation 4.1: If the purpose and intent of the Act is to create transparency within public bodies, it is suggested that a structure should be found to attain that purpose without requiring public sector employees who file a harassment complaint to sacrifice privacy rights they may have under the Act sections 40 and 37. –Todd Stanley Submission, Page 4
- Todd Stanley Recommendation 4.2: ...By the conclusion of the investigation, access by the parties to the investigation will not, or at least, should not, impact a determination of discipline by the employer... The OIPC’s recommendation [2.2] begs the question as to what the purpose of a delay would be, as the access process would not be expected to result in any change or amendment to the investigators findings after the fact... It is suggested public sector employers should be in the same position as private sector employers in their ability to effect discipline where harassment has been found to have occurred as a result of an investigation. – Todd Stanley Submission, Page 4
- Anton Oleynik Recommendation 5: The wording of s. 33 should be changed to ‘information pertaining to the initiation and conduct of a workplace investigation’. – Anton Oleynik Submission, Page 15

Disclosure harmful to intergovernmental relations or negotiations [s. 34]

- CSSD Recommendation 4: Consideration of a legislative amendment that would treat all indigenous groups equitably [eg. include other indigenous groups in s. 34(1)(a)] – CSSD Submission, Page 2
- Executive Council Recommendation 14: ...other jurisdictions have language that provides an exemption allowing refusal to disclose a record where the disclosure could reasonably be expected to prejudice the conduct of relations between an Indigenous community and the Government or an institution or reveal information received in confidence from an Indigenous community by the Government or an institution. A revised section should be created specific to IGOs similar to Ontario’s legislation to reflect and acknowledge all Indigenous groups. Additionally, s. 34 could then be amended to remove reference to Nunatsiavut Government. – Executive Council Submission, Page 18
- IET Recommendation 7: We recommended subsection (l)(a)(v) be amended to include all Indigenous/Aboriginal self governing bodies. – IET Submission, Page 8

Disclosure harmful to the financial or economic interests of a public body [s. 35]

- CNA Recommendation 5: Specific access exemption for records related to contracts where the public body acts as a service provider [eg. CNA's Partnerships, Innovation and Entrepreneurship division] – CNA Submission, Page 4
 - OIPC Response: In our view, CNA has not explained in sufficient detail why sections 35 and 39 do not operate to sufficiently protect against disclosure of information in that circumstance. No evidence of past harm from such disclosures was brought forward by the College, and we are not clear as to the specific statutory gap which it wishes to see filled. – OIPC May 14, 2021 Supplemental Submission, Page 4
- IET Recommendation 8: We note that negotiations have often been interpreted by the OIPC to be something that occurs only at the beginning of a project/contract. This assumption is not correct for many projects/contracts in our sectors where negotiations are often ongoing throughout the life of a project. It is recommended that this be recognized by the Act. – IET Submission, Page 8

Disclosure harmful to conservation [s. 36]

- Department of Fisheries, Forestry and Agriculture Recommendation 2: FFA recommends an amendment to s. 36(b) to include: an endangered, threatened, or vulnerable species, sub-species or a population of a species; upon a recommendation to the department head by the Director of Wildlife. – FFA Submission, Page 5
 - OIPC Response: Based on the present language in section 36, the threshold would remain a disclosure which “could reasonably be expected to result in damage to, or interfere with the conservation of,” which we believe should remain as the appropriate threshold. Conservation issues can become politicized, so perhaps rather than the recommendation of the Director of Wildlife, any additional language could reflect something to the effect of “or another species for which there exists an urgent and significant conservation risk.” – OIPC May 14, 2021 Supplemental Submission, Page 14

Disclosure harmful to individual or public body [s. 37]

- City of Corner Brook Recommendation 21: In a recent decision from the Privacy Commissioner report 2020-012, the Commissioner ruled (paragraph 20) that public bodies cannot rely on speculation of harm that may befall on an employee. The test for s. 37(1)(a) does not require an actual threat to have occurred but on a reasonable expectation that the disclosure could threaten safety. The wording in the *Act* seems contrary to the Commissioner’s ruling – City of Corner Brook Submission, Page 4
- RNC Recommendation 11: In an effort to protect all citizens under jurisdiction it is recommended by the RNC that *ATIPPA* legislation be updated to allow the refusal of information that “could” be expected to cause any harm to one’s physical or mental health as well as a potential risk to anyone’s safety. It is noted that an expectation of this result would still need to exist and a certain level of assurance still met. – RNC Submission, Page 10
- City of St. John’s Recommendation 8: s. 37... is generally interpreted too narrowly and would benefit from additional clarity and mechanisms in which to access harm to individual or public safety

(for instance, the identities of public body employees should be able to be protected from aggressive or disrespectful members of the public). – City of St. John’s Submission, Page 2

- (See also Executive Council Recommendation 13 in ‘Workplace investigations [s. 33]’ recommendations above)

Disclosure harmful to labour relations interests of public body as an employer [s. 38]

- City of St. John’s Recommendation 13: s. 38 would benefit from additional clarity. This section has been narrowly interpreted by the OIPC as pertaining to labour relations in a unionized environment only. This is problematic... - City of St. John’s Submission, Page 3
- Executive Council Recommendation 15: Amend s. 38 to make refusal to disclose mandatory rather than discretionary. As a consequence, also amend s. 9 of the Act to remove the reference to s. 38. – Executive Council Submission, Page 19
 - OIPC Response: Given how rarely it appears to arise, we would not place this among the highest priorities for attention in this review, however given the position put forward by Executive Council we have addressed it here. In light of the foregoing, in addition to the proposal of Executive Council the Chair may wish to consider these options: 1. Consider whether section 38 is necessary as a standalone exception in light of other provisions such as sections 35 and 39(1), and potentially sections 27, 28, 29 or 30 depending on the type of information and the context in which it was created or provided to a public body. 2. Reduce the time period in section 38(2) after which section 38 no longer applies; consider eliminating the reference to archives from 38(2). – OIPC May 14, 2021 Supplemental Submission

Third party business interests [s. 39]

- OIPC Recommendation 10.1: Consider whether an amendment may be necessary to indicate to public bodies that notification to third parties should not occur where the conditions described in 19(1) are not met. Otherwise, retain sections 19 and 39 as they currently exist. – OIPC Submission, Page 47
- Heavy Civil Association of NL Recommendation: The interpretation of “harm” [and “trade secrets”] be adjusted to protect valuable proprietary company information [specifically unit pricing]. – Heavy Civil Association of NL, Page 2
- City of Corner Brook Recommendation 20: Recommend adding clarification at the end of [s. 39(1)] that this provision does to apply to information provided to a public body in an open bid (or perhaps even any public procurement process) under the *Public Procurement Act* – City of Corner Brook Submission, Page 4
- Centre for Law and Democracy Recommendation 2.4: The *ATIPPA* should be amended so that public bodies can disclose information which is not covered by the regime of exceptions, regardless of any third party claims regarding that information, while third parties should have recourse to seek compensation if it is ultimately decided that such a disclosure was erroneous and causes them harm.. – Centre for Law and Democracy Submission, Page 11

- JPS Recommendation 3: Consideration should be given to amending the three-part test contained in s. 39 of the *Act* to create a test that balances the government’s obligation to release information through an access to information request, with third party business interests. – JPS Submission, Page 13
 - OIPC Response: Tourism Culture and Recreation (TCAR) and IET recommend a threshold of 2 out of 3 rather than all 3 parts of the test. JPS has recommended a move to the Manitoba/Nunavut version, which is an exception to the standard across Canada and would be the lowest threshold in the country. Either would lead to a reduction in the public right of access. – OIPC May 14, 2021 Supplemental Submission, Page 5
- Department of Tourism, Culture, Arts and Recreation Recommendation 8: Consideration could be given to requiring any two elements of the three-part test be met in order for the exemption to be applied. – TCAR Submission, Page 3
- City of St. John’s Recommendation 5: This section would generally benefit from broadening and additional clarity as well as a built-in suspension of the timeline to allow public bodies to adequately consult with third parties without having to apply for an extension. – City of St. John’s Submission, Page 1
- NL Aquaculture Industry Association Recommendation 1: NAIA submits that the sufficiency of section 39 in its current language should be reviewed by the Committee to determine whether amending it would coincide with the provision’s underlying policy justification. – NAIA Submission, Page 5
- (See also Executive Council Recommendation 7 in ‘Third party notification recommendations [s. 19]’ above)
- IET Recommendation 6c: Change the definitions accepted by the OIPC terminology in the Act... s. 39 of *ATIPPA, 2015* uses the term “supplied”. In practice, the OIPC has determined that supplied means something that was voluntary given, not requested or required. This interpretation of “supplied” often makes the three part test of s. 39 impossible to use in order to protect third party business information... Clarification is required to ensure standard interpretation and application of this provision. – IET Submission, Page 7
 - OIPC Response: ...jurisdictions operating with the three-part test that is now in *ATIPPA, 2015* have been doing so for decades (and in this province for the past 5 years) and fears that third parties will no longer do business with public bodies, unless access to information is weakened, have not been borne out. – OIPC May 14, 2021 Supplemental Submission, Page 5
- IET Recommendation 9: It is recommended that the legislation define “trade secrets” as outlined in 39(1)(a)(i). IET would recommend that the definition cover all components covered by the Canadian Intellectual Property Office (CIPO) such as Intellectual property, copyright, trademarks, etc. This will remove any ambiguity for coordinators, third party businesses and the OIPC. – IET Submission, Page 9
- IET Recommendation 10: Our department is proposing information that meets two of the three parts 39 (1)(a),(b), or (c) be exempt for disclosure under Section 39 - assuming the definition of “supplied” is changed as previously referenced. – IET Submission, Page 9
- IET Recommendation 11: As part of using s. 39, s. 19 of the Act must also be considered. As it currently stands, s.19 can only be used when a public body is intending to use s. 39, however the

public body is typically unable to determine whether s. 39 actually applies (particularly 39(1)(c)(iii) - release would cause significant harm to the public body)... It is not possible to undertake this decision without properly consulting the third party before deciding to release the information. – IET Submission, Pages 9-10

- Nalcor Recommendation 2: Nalcor recommends that the Committee reach out to other jurisdictions to share information on the difficulties encountered surrounding s. 39 in an effort to find a solution that may work for all. – Nalcor Submission, Page 8
- Digital Government and Services NL Recommendation 10.1: It is recommended that s. 39 of the Act be amended to no longer require a record to meet all three parts of the exemption test in order to apply a redaction exemption. – DGSNL Submission, Page 7
- Todd Stanley Recommendation 5: my suggestion is that in addition to any consideration of re-formulating the test in s. 39, consideration also be given to expand s. 39 to follow the format of s. 40... Lists could be prepared of types of third party information which will be presumed to be subject to release, and correspondingly of types which would be presumed not to be released; the test now contained in s. 39 could be retained to apply to information not fitting into the developed lists. The lists themselves can be developed from the results of the decisions on interpretation of s. 39's current test in consultation with public bodies and third parties...Release could be presumed to be withheld for information a public body acquires in more commercial activities such as third-party financial information acquired in due diligence processes or through negotiations of major commercial arrangements. – Todd Stanley Submission, Page 5
- OCIO Recommendation 1a and 1b: It is recommended that the Act provide flexibility to public bodies to permit notification and the ability to consult with third parties, regardless of a three parts harm test, prior to the release of information or during an investigation under the Act. – OCIO Submission, Page 5
- Department of Health and Community Services Recommendation 2: the department recommends the Committee assess the provisions of section 39 to ensure the Act does not disclose more third party information than its federal counterparts while maintaining the inherent right of access and public interest override. – HCS Submission, Page 4
- Responses to Feb 9, 2021 Letter:
 - Heavy Civil Association of NL Response:
 - The Association submits that the wording in revised section 39(1)(b)(v) achieves the proper goal of protecting third party information by asking if, in fact, at the time of disclosure, the information would cause the third party a loss of confidentiality. - Heavy Civil Association of NL Feb 19, 2021 Response, Page 2
 - The Association submits that any public interest override added to section 39 of the Act should contain more specific wording or limiting factors than what is presently in the revised section 39(4). - Heavy Civil Association of NL Feb 19, 2021 Response, Page 3
 - OIPC Response:
 - ... it is our view that the evidence is not present to demonstrate that the provision requires amendment or that it does not work well as it is currently designed. – OIPC March 4, 2021 Response, Page 7

- CNA Response:
 - Using the hypothetical version of S. 39 presented in your letter and assuming that the information in question is a trade secret or proven to be one of the harms set out in S.(1)(b) and that the public interest override set out in S.4 is not satisfied, we believe disclosure should be refused. – CNA Mar 9, 2021 Response, Page 1
 - The college does not believe [a public interest override in s. 39] is necessary. The OIPC has the ability to review the decisions of a public body as per S. 42 of the Act. This continues to be sufficient. We caution that adding such wording may in fact create ambiguity and promote future requests for clarity from the courts. – CNA Mar 9, 2021 Response, Page 2
- Public interest override:
 - OIPC Response: ... it is our view that the hypothetical section 39(4) could not result in a recommendation for disclosure once we have concluded that the exception applies, as such a recommendation would likely not survive a declaration application, or for that matter, an appeal by a third party. Functionally, the hypothetical section 39 cannot be considered to be an “override” provision because it does not actually over-ride the exception. It merely inserts an additional decision point where the public body has an opportunity to exercise discretion – OIPC May 14, 2021 Supplemental Submission, Page 6
 - OIPC Response: “risk of significant harm to the environment or to the health or safety of the public or a group of people”... excludes the possibility of serious financial mismanagement or fraudulent business practices rising to the level of public interest. Therefore section 9(3) is not an adequate replacement for making section 39 subject to section 9(1), the full public interest override. – OIPC May 14, 2021 Supplemental Submission, Page 6

Disclosure harmful to personal privacy [s. 40]

- Labrador-Grenfell Health Recommendation 1: We believe that there are categories or types of information that may require greater consideration other than what section 40 of ATIPPA can provide. Feedback from our team recognizes workplace investigations, third party information or where requests for data creates potential risk for identifying or re-identifying individuals. In some instances, the sharing of information can result in undue hardship for parties involved, particularly those associated with personal situations such as the division of assets during divorce, custody, and child support etc. In smaller regions such as Labrador Grenfell Health, position titles and human resource information can be easily associated to an individual. There is a greater chance in the Labrador Grenfell Health region of an individual being recognized, as they are the sole individual in that work role. Labrador Grenfell Health welcomes consideration for future discussion regarding this. – HCS Submission, Annex C, Page 1

Disclosure of House of Assembly service and statutory office record [s. 41]

- Office of the Citizens’ Representative Recommendation 1: The mandatory exemption clause should remain in its current form – OCR Submission, Page 3
- Children and Youth Advocate Recommendation 1 and 2: The prohibition of disclosure with respect to investigatory records should be strengthened in two ways: [1] make it clear that s.41(c) operates

notwithstanding s.33; and [2] make it clear that irrespective of a report being prepared following an investigation, no access will be provided to the investigative file or the report – CYA Submission, Page 3-4, 6

- OIPC Response: ... some parties have expressed that section 41(c) should also be paramount to section 33. We have no objection to that proposal. We are of the view, however, that section 33 should be subject to the public interest provision. In circumstances where high-level public officials are involved in perpetrating serious workplace harassment, there can be a public interest in a certain amount of transparency in order to facilitate appropriate accountability. – OIPC May 14, 2021 Supplemental Submission, Page 9
- OIPC Recommendation 16.1: Consider whether to expand the scope of *ATIPPA, 2015* to cover the records of the Officer of the Auditor General; if so, for clarity, amend s. 41(c) to include audit alongside investigatory functions. – OIPC Submission, Page 67
- Commissioner for Legislative Standards Alternative Recommendation: In the event the Committee decides not to remove the Commissioner for Legislative Standards from [s. 2(r)] the *ATIPPA*, an amendment to s. 41(c) is still necessary to prevent an intrusion into the investigatory file. (Add “notwithstanding s. 33” language). – Commissioner for Legislative Standards Submission, Page 6
 - OIPC Response: We would of course oppose removing the Commission for Legislative Standards from the *ATIPPA*, and given that we have agreed that exceptions including section 41(c) take precedence over section 33, we see no need for such a drastic step. Furthermore, contrary to the submissions of those parties, we believe that the best place to indicate which exceptions are intended to be paramount over section 33 would be in section 33, not in an amendment to section 41. – OIPC May 14, 2021 Supplemental Submission, Page 9
- Office of the Chief Electoral Officer Recommendation 2: The Chief Electoral Officer is of the opinion that the audit papers may fall within the statutory exception to access contained in s. 41(c) of the *ATIPPA* as part of its investigatory file, however clarification of language in that section would be helpful. The Chief Electoral Officer recommends that s. 41(c) be amended as follows: “...records or reports connected with the investigatory or audit functions...” – Office of the Chief Electoral Officer Submission, Page 2
- Speaker of the HOA Recommendation 5: The House of Assembly confirms its support for that provision [s. 41]. – City of St. John’s Submission, Page 4
- Executive Council Recommendation 2: It is proposed that a provision be added to *ATIPPA, 2015* to exclude all AG working papers from disclosure under the legislation. This could be done by:
 - Amending s. 41 of *ATIPPA, 2015*; or
 - Modifying s. 5(1) of *ATIPPA, 2015* to include a provision that states the right of access does not apply to records provided to the Auditor General and their office specific to an examination or inquiry by the Auditor General and their office; or
 - Modifying Schedule A to include s. 22 of the *Auditor General Act*.

Complaints [Part II, Division 3 – s. 42-60]

- OIPC Recommendation 13.1: Amend Part II, Division 3 to clarify that the applicant retains a path to appeal in the Trial Division if the Commissioner makes a recommendation under 47(b). – OIPC Submission, Page 51

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- OIPC Recommendation 13.2: Amend Part 2, Divisions 3 and 4 for greater certainty to clearly establish that an applicant’s right of appeal to the Trial Division following a complaint to the Commissioner’s Office is equally as broad as the right of appeal granted under s. 52 when the applicant goes directly to court, and that it encompasses any decision, act or failure to act which results in the applicant not receiving the requested records. – OIPC Submission, Page 52
 - City of Corner Brook Recommendation 22: Investigation provisions [s.43-s. 47] need to be revamped. From our experience when we went through this process, the OIPC acted as an “advocate” for the applicant, using the provisions regarding onus of proof being on the municipality to avoid their duties to conduct a formal investigation. Once they get to the investigation stage, the onus should be on the OIPC to conduct a fair and impartial investigation as a thorough and unbiased truth-seeking endeavor, not as an advocate for either side. See [City of Corner Brook Recommendation 14] – City of Corner Brook Submission, Page 4
 - Department of Tourism, Culture, Arts and Recreation Recommendation 7: In cases where the OIPC may be aware of records that were not provided to an applicant, it is incumbent upon the OIPC to share those records with the public body so that public body can determine why a particular record may no longer be in custody. – TCAR Submission, Page 3
 - Burden of Proof [s. 43] and Investigation [s. 44]
 - Third parties as parties to a complaint:
 - Innu Nation Recommendation 2: Innu Nation’s view is that this procedure properly requires the public body refusing to provide information to demonstrate that its refusal is appropriate, and ensures that the affected parties have notice of the OIPC’s decision. – Innu Nation Submission, Page 2
 - OCIO Recommendation 1c: The burden of proof should not be on the head of the public body to prove that the disclosure of information is contrary to the Act when the information belongs to a third party. – OCIO Submission, Page 5
 - ATIPPA Office Recommendation 6.6b: Consider amending s. 44 of the Act to identify third parties as a party to the complaint if it is a complaint where the public body has used s.39 to withhold information. – ATIPP Office Submission, Page 21
 - Department of Tourism, Culture, Arts and Recreation Recommendation 6: More time for response [10 business day under s. 44] to the OIPC should be a consideration if the department is to undertake OIPC challenges and investigations while conducting normal departmental ATIPP responsibilities. – TCAR Submission, Page 3
 - (See also ATIPP Office Response 6.3 in ‘Time limit for formal investigation’ [s.46] recommendations below)
 - OIPC Response: We understand that it is a short period of time, however we are also of the view that the 65 business day time frame from receipt of a complaint to issuance of a report (if informal resolution is not successful) has been a very positive aspect of the establishment of an efficient, effective first level review of complaints, as envisioned by the 2014 ATIPPA review, and keeping those time frames as short as they are is very much in the public interest. That being said, we have been ame-

nable to granting short extensions to the 10 business day deadline where extenuating circumstances exist, and we think it would be better to continue to proceed on that basis. – OIPC May 14, 2021 Supplemental Submission, Page 24

- ATIPP Office Response 6.1: Consider amending the provisions regarding the complaint process with the OIPC. For example, if a complaint cannot be resolved informally and it moves to the formal investigation stage, it should be mandatory for the OIPC to notify the public body and complainant and opportunity be provided to both parties to provide additional submissions prior to the final report being issued. Additionally, the OIPC should be legislatively required to provide the public body and the complainant with their general findings during the informal stage of the complaint, to ensure both parties have sufficient information when completing their final submission (if the suggestion above is made). This is of particular importance in cases where the OIPC has indicated that they agree with a party's position, but then issue a report that takes the opposite or varying position. – ATIPP Office May 3, 2021 Supplemental Submission, Page 12
- Authority of commissioner not to investigate a complaint [s. 45]:
 - City of Corner Brook Recommendation 23: Would recommend changing “may” to “shall” in s. 45(1). – City of Corner Brook Submission, Page 4
 - ATIPP Office Response 6.2: Consider whether to amend the Act to require the OIPC to communicate with the complainant and receive sufficient details to proceed prior to sending the notification to the public body. – ATIPP Office May 3, 2021 Supplemental Submission, Page 13
- Time limit for formal investigation [s. 46]:
 - CNA Recommendation 7: Increase the 65 day timeframe set out in s. 46 of the *ATIPPA* in which a formal investigation of the OIPC must be completed. – CNA Submission, Page 5
 - ATIPP Office Response 6.3: As noted above, the current policy of the OIPC is to provide public bodies with 10 business days to respond to a complaint once notified. If the Committee determines that extending the timeframe for an OIPC investigation is appropriate, we would suggest that consideration be given to amending the Act to provide provisions outlining the timeframe allotted to public bodies and complainants to respond to a complaint in both the informal and formal stages of the investigation. Furthermore, if the timeframe is extended, and provisions regarding the above are added, the timeframe for responding should be greater than 10 business days. – ATIPP Office May 3, 2021 Supplemental Submission, Page 13
- Report [s. 48]
 - MUN Recommendation 8.1: Memorial University recommends s. 48 be amended to clarify that the Commissioner should distinguish between Soft and Hard Recommendations in his reports. – MUN Submission, Page 28
 - Anton Oleynik Response: MUN's position that ‘there is a practical distinction between “soft” and “hard” recommendations that is not adequately addressed in the legislation’⁵⁸ is not based on any precedent, authority or even common practice. – Anton Oleynik Submission, Page 21

- Response of public body [s. 49]:
 - MUN Recommendation 9.1: Amend the legislation to clearly delineate that there is a statutory deadline for compliance with the Commissioner’s recommendations. – MUN Submission, Page 29
 - MUN Recommendation 9.2: Extend the number of business days that a public body has to comply with the Commissioner’s recommendation to at least 20 business days. – MUN Submission, Page 29
 - City of Mount Pearl Recommendation 7: s. 49. (1) and 49. (2) are contradictory to each other in how they are written and could have negative impact on s.54. Section 49(1) indicates that a Public Body must give written response within a certain timeline, but 49(2) indicates that no response within said timeline is considered acceptance. Therefore, a non-response by a Public Body is considered acceptance of the Commissioner’s recommendation, the Public Body would not need to notify the Commissioner or an Applicant/Third Party of its decision to accept the Commissioner’s recommendations. This could lead to confusion when s. 54 Appeal of public body decision after receipt of commissioner’s recommendation is relevant. – City of Mount Pearl Submission, Page 9
 - MUN Recommendation 8.2: Section 49(3) be amended to clarify that notice of the right of appeal in a public body’s decision letter is only required where the Recommendation in question is regarding the granting or refusing of access to the record or part of the record; or, not to make a requested correction to personal information. – MUN Submission, Page 28
- Head of public body seek declaration in court [s. 50] and filing an order with the Trial Division [s. 51]
 - City of Corner Brook Recommendation 24: Currently if a public body does not agree with OIPC recommendation it has to apply to court for a declaration to not follow the recommendation [s. 50-51]. The onus should be on the OIPC to bring a court application to enforce its recommendations if it so desires, without the City losing its ability to contest the OIPC recommendations. – City of Corner Brook Submission, Page 4
 - OIPC Recommendation 13.4: Amend *ATIPPA, 2015* to clarify that an application by a public body for a declaration under s. 50 and 79 is an ex parte application. – OIPC Submission, Page 53
- Direct appeal to Trial Division [s. 52 and 53]
 - City of St. John’s Recommendation 14: this review should consider removing the provisions for a direct appeal to the Supreme Court under sections 52(1) and 53(1). Requiring the Commissioner review complaints first before they can proceed to the Trial Division allows for the possibility of resolving these cases at the OIPC level before ever reaching the Supreme Court and needlessly using Court resources. – City of St. John’s Submission, Page 4
 - OIPC Response: Essentially, direct appeals are exceptions to the normal process, however we see no pressing need to remove that option from applicants who wish to choose it, because it is very likely that these matters would eventually go to court anyway, even if they were forced to go through the OIPC process first. The Com-

missioner will usually intervene to provide our perspective on statutory interpretation to the court in such matters. – OIPC May 14, 2021 Supplemental Submission, Page 19

- (See also OIPC Recommendation 13.6 in ‘Request abandonment and applicant duty to assist’ recommendations)
- Appeal of public body decision after receipt of commissioners’ recommendation [s. 54]
 - Anton Oleynik Recommendation 8: If a deadline for complying with the OIPC’s recommendation is set, then the deadline for commencing an appeal under Section 54 of the ATIPPA should be extended and the applicant should have at least ten business days after receiving additional disclosure to decide if s/he will bring the matter before the Court. – DGSNL Submission, Page 27
- Procedure on appeal (Public body notification of applicant on third party appeal) [s. 56]
 - OIPC Recommendation 13.5: Amend s. 56 of *ATIPPA, 2015* to require a public body to provide a copy of an appeal received from a third party to the access to information applicant and inform them of their right to intervene under s. 56(3). – OIPC Submission, Page 54
 - City of Corner Brook Recommendation 25: Notice of appeal in s. 56(1) should name the public body (eg. City of Corner Brook) not the head of the public body as a respondent. – City of Corner Brook Submission, Page 4
- Practice and procedure [s. 57]
 - MUN Recommendation 10.1: Memorial University recommends that the legislation be amended to clarify that a *de novo* hearing shall proceed as an expedited hearing on the basis of affidavit evidence subject to further application to the Court for additional steps under Rule 17A.09. – MUN Submission, Page 4
 - Anton Oleynik Response: These procedural steps [notice of inspection, interrogatories, interlocutory applications, requests for lists of documents...] are necessary safeguards against attempts to undermine the integrity of judicial process and to bring it by doing so into disrepute. – Anton Oleynik Submission, Page 23
 - OIPC Response: The OIPC does not object. – OIPC May 14, 2021 Supplemental Submission, Page 28
 - MUN Recommendation 10.2: Memorial University recommends that the first appearance date shall proceed as a case management meeting at which the parties are to discuss any applications contemplated under Rule 17A.09 and scheduling deadlines. – MUN Submission, Page 4
 - OIPC Response: The OIPC disagrees – some appeals are relatively straightforward and a case management approach is unnecessary. First appearances on ATIPPA, 2015 appeals typically consist of establishing filing deadlines, obtaining a hearing date, and a sealing application for the records. In our view the use of case management should be at the discretion of the Court in circumstances deemed appropriate by the presiding Judge. – OIPC May 14, 2021 Supplemental Submission, Page 28

- MUN Recommendation 10.3: Memorial University recommends that further recourse to the *Rules of the Supreme Court, 1986* be prohibited absent an order of the Court under Rule 17A.09 (as contemplated by the application provision of the *Rules of the Supreme Court, 1986* in Rule 1.02). – MUN Submission, Page 4
 - OIPC Response: The OIPC agrees. – OIPC May 14, 2021 Supplemental Submission, Page 28
- MUN Recommendation 10.4: Memorial University recommends that all *ATIPPA, 2015* appeals be case managed, with the first date serving as the first case management meeting. – MUN Submission, Page 4
 - OIPC Response: The OIPC disagrees. As noted above, some appeals are relatively straightforward and case management should be at the discretion of the Court in circumstances deemed appropriate by the presiding Judge. – OIPC May 14, 2021 Supplemental Submission, Page 29
- MUN Recommendation 10.5: Memorial University recommends that a public body be required to file an audit copy of the records under seal with the Court without the necessity of a sealing application. – MUN Submission, Page 4
 - OIPC Response: The OIPC does not agree that such an amendment is required. A sealing application is an important step to obtain certainty regarding the understanding of the Court and all parties before the Court about the status of the records. Not all lawyers who appear on ATIPP matters are familiar with the statute, and a statutory requirement to file records could be missed. The OIPC is required to be notified of appeals, and will continue to ensure that parties are aware of that step if there is any uncertainty. – OIPC May 14, 2021 Supplemental Submission, Page 29
- Disposition of an Appeal [s. 60]
 - OIPC Recommendation 13.3: Amend s. 60 allowing the court to make an order that it considers appropriate, and have that provision stand alone as 60(1)(d). – OIPC Submission, Page 53

Protection of personal information – Collection, use, and disclosure [Part III, Division 1]

- (See also OIPC Recommendations 4.3 and 4.5 in Definitions recommendations above)
- OIPC Recommendation 4.1: Add a requirement to Part III, Division 1 of the *Act* for public bodies to develop information policies and procedures to make them public. – OIPC Submission, Page 23
 - ATIPP Office Response 2: ...our Office suggests that the Committee should not adopt provisions of PHIA as amendments to the Act. However, if the Committee determines that it would be appropriate to legislate the requirement for policies/procedures, our Office would suggest that the Committee consider any such amendment to be based on reasonableness, which would be in line with other provisions of the Act... If potential amendments included a “reasonableness” provision, it would ensure that the provisions were not interpreted to require a specific privacy policy for every service/program that is offered by a public body, therefore, saturating the public body with similar and unnecessary policies and procedures. - ATIPP Office May 3, 2021 Supplemental Submission, Page 5

- OIPC Recommendation 4.2: Add a requirement for the swearing of an oath or affirmation of confidentiality by staff of a public body who have contact with personal information. – OIPC Submission, Page 23
- How personal information is to be collected [s. 62]
 - City of Corner Brook Recommendation 26: s. 62 - Recommend adding an exception that where information is already in the public domain there is no reason the [public body] should not be able to collect the information when it's available to other people/businesses, provided that the reason for collection is justified. – City of Corner Brook Submission, Page 9
- Protection of personal information [s. 64]
 - ATIPP Office Recommendation 12.1: Consider amending s. 64 to preclude public bodies from being required to notify in limited circumstances where otherwise they would be required to do so. For example, where there are compelling circumstances that could affect the person or another person's health or safety. – ATIPP Office Submission, Page 33
 - OIPC Response: We agree that such a provision is necessary, however in our view it is of sufficient substance and potentially prone to abuse by public bodies for avoidance of accountability and embarrassment, that such a decision should only be made with approval of the Commissioner. – OIPC May 14, 2021 Supplemental Submission, Page 41fsupport
 - ATIPP Office Recommendation 12.2: Consider amending s. 64(3) and 64(4) to include similar language in outlining the circumstances under which notification is required. – ATIPP Office Submission, Page 34
 - ATIPP Office Recommendation 12.3: Consider amending subsection 64(4) of the Act to require public bodies to report privacy breaches to the ATIPP Office in addition to the OIPC. – ATIPP Office Submission, Page 34
 - CNA Recommendation 2: Quarterly reporting of minor breaches to the OIPC. Some consideration to categorizing privacy breaches and adjusting the reporting requirements accordingly. – CNA Submission, Page 2
 - City of St. John's Recommendation 4: Consideration should be given to the current practice of mandatory breach reporting as, it appears, we are the only jurisdiction required to do the same. Public bodies should certainly track their own breaches and perhaps provide annual statistics to the ATIPP Office and OIPC, but unless the breach is material, warranting notification under s. 64(3), notifying the OIPC and ATIPP Office of every breach can be onerous, even for public bodies with small numbers of breaches each year. – City of St. John's Submission, Page 1
- Use of personal information by post-secondary educational bodies [s. 67]
 - CNA Recommendation 4: Specific access and privacy provisions for records of alumni services. [Broaden scope of s. 67 to include other alumni outreach and engagement activities] – CNA Submission, Page 3
- Disclosure of personal information [s. 68]

- ATIPP Office Recommendation 13.1: Consider amending paragraph 68(1)(p) to include an additional clause for notification – e.g. except where the head of the public body determines that notification of disclosure could harm the health or safety of the person who is to be notified or another individual. – ATIPP Office Submission, Page 34
- ATIPP Office Recommendation 13.2: Consider amending paragraph 68(1)(v) to allow a public body to disclose personal information to a surviving spouse or next of kin where the head deems it appropriate under the circumstances. – ATIPP Office Submission, Page 36
- CNA Recommendation 3: Specific access and privacy provisions for records of student support services. [Permit consultation with necessary third parties for student support services] – CNA Submission, Page 2
- Privacy impact assessment [s. 72]
 - (See also OIPC Recommendations 5.1 and 5.3 in Definitions recommendations above)
 - OIPC Recommendation 5.2: Amend s. 72(3) and s. 72(4) to broaden its scope, such that any public body other than a local government body defined in s. 2(o)(iv) is required to notify the Commissioner of a common or integrated program or service at an early stage. Complete a privacy impact assessment for such an initiative, and to submit the privacy impact assessment to the Commissioner for review. – OIPC Submission, Page 29
 - OIPC Recommendation 5.4: Amend s. 72 to add a requirement for an information sharing agreement to be completed by parties to a common or integrated program or service. – OIPC Submission, Page 32
 - ATIPP Office Response 4.2: Our Office would suggest that the Committee consider whether it is necessary to include a legislative requirement for ISAs to be completed for every common or integrated program. The determination of whether an ISA should be completed can be made during a privacy assessment, which the OIPC has recommended encompass all public bodies other than municipalities. If the Committee determines that it is appropriate to amend the Act to include a requirement for ISAs, in addition to adopting the OIPC's recommended definition of a common or integrated program, our Office would suggest that consideration be given to include limitations to the circumstances under which ISAs are required, including, but not limited to:
 - ISAs are not required for programs/services that fit under the definition of a common or integrated program in name only (e.g. where OCIO or the Public Engagement (PEP) are providing their clients with support only, etc.);
 - ISAs are not required where disclosure is authorized under a paragraph of 68 other than 68(1)(u), except in cases where other factors weigh in favour of signing an ISA (e.g. sensitivity of personal information, etc.).
 - ISAs are not required where the type of personal information being collected, used or disclosed, does not warrant an ISA, as determined through a privacy assessment. – ATIPP Office May 3, 2021 Supplemental Submission, Pages 9-10
 - OIPC Recommendation 6.3: That a privacy impact assessment be required for any program or initiative involving the collection, use or disclosure of biometric information, including changes or expansions to existing programs. Furthermore, the OIPC should be notified of the development of any program involving the creation of a biometric database prior to its

creation or use, and the privacy impact assessment should be provided to the OIPC for review and comment prior to system implementation. Such an amendment could potentially be located in a new s. 72(5). – OIPC Submission, Page 35

- (See also ATIPP Office Recommendation 1.4 in ‘Definitions [s.2]’ recommendations above)
- MUN Recommendation 14: Memorial University recommends that section 72 be amended by adding a subsection as follows:

(5) Notwithstanding section 72(1) and (2), Memorial University shall, during the development of a program or service by Memorial University, submit to the Head:

- (a) A privacy impact assessment for the Head’s review and comment, or
- (b) The results of a preliminary assessment showing that a privacy impact assessment of the program or service is not required

– MUN Feb 12, 2021 Supplemental Submission, Page 9

- MUN Recommendation 15: Memorial University recommends that s.72 be amended by adding subsections as follows:

(6) Notwithstanding section 72(3) and (4), Memorial University shall notify the commissioner of a common or integrated program or service in connection with administrative matters, but not academic programming matters, at an early stage of developing the program or service.

(7) Notwithstanding section 72(3) and (4), the Head of Memorial University shall, where the Head receives a privacy impact assessment respecting a program or service described in subsection 6 for which disclosure of personal information may be permitted under paragraph 68 (1)(u), the Head shall, during the development of the program or service, submit the privacy impact assessment to the commissioner for the commissioner’s review and comment.

– MUN Feb 12, 2021 Supplemental Submission, Page 110

Privacy complaint [s. 73]

- OIPC Recommendation 4.6: Amend *ATIPPA, 2015* to allow for prospective privacy complaints. (Add “or is about to be” in the language of s. 73(1), (2) and (3)) – OIPC Submission, Page 26
- City of Corner Brook Recommendation 27: There should be a time limit for filing complaints [despite s. 73(4)]. Commissioner should not be able to extend at their absolute discretion. I would suggest a limit of 2 years maximum. The Limitations Act would generally be 2 years for this type of matter. – City of Corner Brook Submission, Page 5

Authority of commissioner not to investigate a privacy complaint [s. 75]

- City of Corner Brook Recommendation 28: Would recommend changing “may” to “shall” in s. 75. – City of Corner Brook Submission, Page 5

Anonymity of privacy complaints [s. 77, 78, 79]

- OIPC Recommendation 16.8: Amend *ATIPPA, 2015* to accept a privacy complaint from someone who does not wish their identity to be shared with the public body, where the identity of the complainant is not relevant to the investigation. [Specifically, s. 77(2), 78(1)(b), 79 (1)(b)] – OIPC Submission, Page 74
- City of Corner Brook Recommendation 29: Onus should be on OIPC to bring matter to court if they want it enforced and a public body should not lose right to contest validity of its recommendations by not making application for declaration. Also, need to close the loop hole where OIPC framed it as a s. 76(2) recommendation so the City would have no recourse to appeal the Commissioners findings and recommendations following its formal investigation... – City of Corner Brook Submission, Page 5

Appointment and Status of the commissioner [s. 85, s. 86]

- OIPC Recommendation 12.1: Amend *ATIPPA, 2015* to ensure that the position of Commissioner will not be vacant for any period of time, so as to allow the oversight functions of *ATIPPA, 2015* and *PHIA* to continue normally, particularly in circumstances such as the resignation or retirement of a Commissioner, until a new Commissioner is appointed under s. 85. – OIPC Submission, Page 50
- OIPC Response: We reiterate our recommendation (12.1) that a procedure to immediately fill a vacant Commissioner position be inserted into the Act and clarify that the appointment of an interim Commissioner should remain a responsibility of the legislative branch of the House of Assembly. Two options that we offered for consideration were (i) the designation of a specific position within the OIPC authorized by statute to perform the duties of the Commissioner in case of incapacitation of the Commissioner or vacancy of the office; and (ii) providing a Commissioner with the responsibility of designating an individual employee who would have such responsibilities. – OIPC May 14, 2021 Supplemental Submission, Pages 25-26
- City of Corner Brook Recommendation 30: This section indicates the commissioner has same status as deputy minister however commissioner position is locked in for 6 years. Need procedure to file and hear complaints against commissioner when there are issues during his/her tenure. – City of Corner Brook Submission, Page 5
- Centre for Law and Democracy Recommendation 1.4: Language should be added to the *ATIPPA* on minimum qualifications for commissioners and rules prohibiting individuals with strong political connections from being appointed. – Centre for Law and Democracy Submission, Page 5
- Speaker of the HOA Recommendation 2: [Consideration is needed on the issue of] how the name of ‘one of the individuals named on the [selection committee’s submitted] roster’ is chosen to be put forward in the resolution, in particular where no unanimity exists among the individuals with whom the Speaker must consult. – HOA Submission, Page 3
 - OIPC Response: While we agree that the problems that the Speaker has identified need to be addressed, these are specific mechanistic problems about the interface between the selection committee and the House. We believe that the current composition of the selection committee remains sound. – OIPC May 14, 2021 Supplemental Submission, Page 26

Removal or suspension and Acting commissioner [s. 88, s. 89]

- (See also Speaker of the HOA Recommendation 3 in ‘Schedule of excluded public bodies [s. 4]’ recommendations above)

General powers and duties of commissioner [s. 95]

- (See also OIPC Recommendation 7.4 in ‘Artificial Intelligence’ recommendations below)

Representations during an investigation [s. 96]

- ATIPP Office Recommendation 6.6a: Consider amending section 96 to require the OIPC to give a third party the opportunity to make representations where a public body has refused disclosure under s.39, or when a third party files a complaint and the records relate to another third party that has not been notified. – ATIPP Office Submission, Page 21
- Anton Oleynik Recommendation 1: The duty to document should be legislated in a more explicit manner, as proposed by the OIPC in its submissions... - DGSNL Submission, Page 27
- Anton Oleynik Recommendation 2: s. 96 of the ATIPPA requires that investigations are conducted in a transparent and competitive manner and, if a party wishes to make submission in camera, this party needs first to make an inter partes application for leave. – Anton Oleynik Submission, Page 5
- (See also Anton Oleynik Recommendation 3 in Offence [s. 115] Recommendations below)

Production of privileged documents and right of entry [s. 97, s. 98, s. 100]

- OIPC Recommendation 1.1: Amend s. 97(1) by adding after (d) a specific provision with effect similar to s. 36(2.1) of the federal *Access to Information Act*. – OIPC Submission, Page 13
- City of Corner Brook Recommendations 8 and 31: We recommend that s. 97 and 98 of the *Act* be amended to reflect [the *Corner Brook (City) v Newfoundland and Labrador (Information and Privacy Commissioner)*, 2020 NLSC 37] judgment. The amended sections should include a provision that when claiming [solicitor client] privilege or [litigation] privilege that the head of public body or its solicitor be required to provide to the OIPC a letter or affidavit listing the documents it claims s. 30 privilege and why, and if the OIPC is not satisfied then an application could be brought to court for judicial review of the documents... OIPC cannot demand access to review documents per SCC decision *Alberta (information & Privacy Commissioner) v University of Calgary*, 2016 SCC 53)... – City of Corner Brook Submission, Pages 1 and 5
- (See also City of Corner Brook Recommendation 13 in the s. 3 Purpose recommendations above)
- Centre for Law and Democracy Recommendations 1.3: Explicit language should be added to s. 97 to make it clear that the Commissioner has the power to review information that is subject to a claim of solicitor-client privilege. – Centre for Law and Democracy Submission, Page 5
- JPS Recommendation 1: The Department recommends that the *Act* be amended to clarify that the Commissioner cannot compel production of documents subject to solicitor-client privilege. – JPS Submission, Page 6
- (See also JPS Recommendation 2 in the ‘Public interest override [s. 9]’ recommendations above)
- City of St. John’s Recommendation 7: While solicitor client privilege and litigation privilege are noted in the *Act*, there have been recent decisions by the OIPC that have potentially eroded those

protections. The City strongly recommends that the Act explicitly enshrine the paramountcy of these privileges. – City of St. John’s Submission, Page 2

- MUN Recommendation 2: Memorial University recommends that a revision or clarification of s.100 of the legislation reflect the current unofficial process in which the OIPC accepts a listing of solicitor-client and/or litigation privileged information and/or records with submission, in lieu of the privileged records themselves and, therefore, is unable to compel production of solicitor-client and litigation privileged information and/or records. – MUN Submission, Page 3
 - Anton Oleynik Response: The wording [of s. 100(2)] is plain and clear, I submit. The claim that ‘section 100(2) does not demonstrate a clear legislative intention to abrogate solicitor-client privilege’²⁶ is without merit. – Anton Oleynik Submission, Page 11
- CBA NL Recommendation 1: CBA-NL respectfully requests that the power to review solicitor-client and litigation privileged materials be reserved solely for the Supreme Court of NL – a court of inherent jurisdiction and the only impartial decision-maker under the legislation. – CBA NL Submission, Page 4
- Law Society of NL Recommendation 1: ...the Law Society suggests that it would be appropriate for the Committee to consider whether the ambiguity regarding the compellability of documents subject to solicitor-client privilege in s. 97 of the Act should be clarified. – LSNL Submission, Page 6
- (See also CBA NL Recommendation 3 in Legal advice recommendations above)
- OIPC Response: We would not object if the statute were amended to allow public bodies to attempt to discharge the burden of proof involving a claim of solicitor-client privilege through production of a detailed affidavit, and we have accepted such affidavits in the past when they have proven adequate. The Commissioner must be in a position, however, to demand production of the records if the affidavit is insufficient to discharge the burden of proof, and the decision to do so must be at the sole discretion of the Commissioner... - OIPC May 14, 2021 Supplemental Submission, Page 23

Admissibility of Evidence [s. 99]

- JPS Recommendation 4: Consideration should be given to removing s. 99(2) from the *Act*. In the alternative, s. 99(2) should be amended to allow OIPC investigators to be called as witnesses for offences under the *Act*. – JPS Submission, Page 14
 - OIPC Response: Removing section 99 altogether could have the effect of creating reluctance on the part of Coordinators to be forthcoming with OIPC staff, particularly during informal resolution and other professional interactions... We think this would hinder the work of the Office, the vast majority of which occurs in an informal process, which is not widely understood... As a final point, we believe section 99(2) can be waived by the Commissioner in appropriate circumstances. This is a discussion that can be had with the Crown. – OIPC May 14, 2021 Supplemental Submission, Pages 26-28
- RNC Recommendation 9b: It is recommended that section 99 in its entirety be updated to allow the OIPC to actively be involved in other forms of investigations and proceedings outside of their own. – RNC Submission, Page 9

Evidence Act [s. 101]

- OIPC Recommendation 16.9: No amendment is required to s. 101. – OIPC Submission, Page 75

Designation of head by local public body [s. 109]

- ATIPP Office Recommendation 19: Consider amending s. 109 to require the head of the public body to be a member of the staff, except in exceptional circumstances, and remove the ability for the head of public body to be a group of people. – ATIPP Office Submission, Page 41

Designation and delegation by the head of a public body [s. 110]

- ATIPP Office Recommendation 20: Consider whether it would be appropriate to amend the legislation to allow the ATIPP coordinator to be an individual not on the staff where necessary (perhaps in extraordinary circumstances or with approval of the OIPC). - ATIPP Office Submission, Page 42

Publication Schemes [s. 111]

- OIPC Recommendation 15.1: Section 111(6) should be deleted, and public bodies be given one year from the coming into force of any amendments to ATIPPA, 2015 to prepare a publication scheme as required in section 111. – OIPC Submission, Page 65
 - ATIPP Office Response 7.1: Consider whether a publication scheme, as currently outlined in section 111 is necessary. If it is deemed necessary, consider amendments to make it more user friendly. Additionally, consider whether provisions could be added to eliminate the requirement for public bodies to include information already publicly available in the publication scheme (e.g. mandate, divisions/branches, etc.). If it is determined that section 111 should not be modified, consider whether it would be appropriate to require the OIPC to develop a standard template in compliance with subsection 111(1) that will be prescriptive and can then be easily adapted by public bodies as intended. If it is deemed necessary for the OIPC to develop a standard template in compliance with subsection 111(1), consider whether it would be appropriate to require them to consult with, at minimum, the following stakeholders within affected public bodies prior to finalization:
 - IM professions;
 - IT professionals;
 - Divisions responsible for the overall design and function of the public body website;
 - ATIPP coordinators; and
 - Any other stakeholders deemed appropriate by the Committee. – ATIPP Office May 3, 2021 Supplemental Submission, Pages 14-15
- OIPC Recommendation 15.2: A requirement should be added to ATIPPA, 2015 that public bodies must submit a completed publication scheme to the Commissioner for review and comment prior to that one year period. – OIPC Submission, Page 65
 - ATIPP Office Response 7.2: Consider whether this is necessary. If a standard template is developed in consultation with public bodies, this recommendation would appear unnecessary. Furthermore, there is nothing in the legislation that would preclude the OIPC from reviewing publication schemes once they are published. – ATIPP Office May 3, 2021 Supplemental Submission, Page 15

- OIPC Recommendation 15.3: The Act should be amended to provide the Commissioner with authority to require any deficiencies in the publication scheme to be addressed within a reasonable period of time to be determined by the Commissioner. – OIPC Submission, Page 65
 - ATIPP Office Response 7.3: Our Office would suggest consideration be given to whether this is necessary. If a standard template is developed in consultation with public bodies, this recommendation would appear unnecessary. Alternatively, if the Committee considered it appropriate to amend the legislation as recommended by the OIPC, we would suggest consideration be given to modifying proposed amendments by allowing the OIPC the ability to make recommendations regarding the publication scheme (once it is published) which the public body can consider but is not legislatively required to comply with. – ATIPP Office May 3, 2021 Supplemental Submission, Pages 15-16
- OIPC Recommendation 15.4: The Act should be amended to require that publication schemes must be updated at least annually. – OIPC Submission, Page 65
- OIPC Recommendation 15.5: All classes of public bodies should be subject to the requirements of section 111, except local government bodies other than the City of Mount Pearl, the City of St. John's, and the City of Corner Brook, and any other public body designated in the regulations as exempt from this requirement on the basis of its small capacity and lack of information holdings. – OIPC Submission, Page 65
- Department of Health and Community Services Recommendation 3: The department recommends consideration of the addition of a publication scheme into the Act that is consistent with the federal legislation in granting citizens more efficient access to information. – HCS Submission, Page 5
- OIPC Response: On May 10th when pressed by you about why the publication scheme has not been dealt with, JPS asserted that the OIPC should create a standard template. We have in fact met this requirement in January of 2016. – OIPC May 14, 2021 Supplemental Submission, Page 43

Limitation of Liability [s. 114]

- City of St. John's Recommendation 1: What if the information is posted too quickly and then it is determined that it should not have been disclosed? A limit on liability should also be considered for these situations. – City of St. John's Submission, Page 1

Offence [s. 115]

- Anton Oleynik Recommendation 3: Either the Section 115 is included in the *Provincial Offences Act*, SNL1995, Chapter P-31.1, which will enable the Royal Newfoundland Constabulary to prosecute the relevant offences, or Section 96 of the ATIPPA is amended along the lines proposed above. – Anton Oleynik Submission, Page 27

Municipal Governments and Privileged Meetings [s. 116]

- OIPC Recommendation 14.3: Create a regulation under s. 116(f) of *ATIPPA, 2015* that specifies the purposes for which a local public body may hold a privileged meeting. – OIPC Submission, Page 59

Schedule A

- Centre for Law and Democracy Recommendation 2.6: The *ATIPPA* should provide that secrecy provisions in other laws, including those set out in Schedule A, do not apply to the extent that they conflict with its provisions. – Centre for Law and Democracy Submission, Page 11
- (b) section 29 of the *Adult Protection Act* and (d) sections 90 to 96 of the *Children, Youth and Families Act*;
 - CSSD Recommendation 5: The provision for the *Adoption Act*, the *Adult Protection Act*, and the *Children, Youth and Families Act* should continue to remain as this legislation governs extremely personal information that must be protected and the right to privacy far outweighs the public's right to know. – CSSD Submission, Page 2
- (e) section 5.4 of the *Energy Corporation Act*;
 - OIPC Recommendation 17.1: Amend s. 5.4 of the *Energy Corporation Act* to remove the certification and confirmation process to make it clear that the Commissioner's review of a decision to deny access places the burden of proof on Nalcor, and it must discharge that burden through the presentation of evidence and argument about commercial sensitivity and the expected harm from disclosure, as would be the process for any other public body under *ATIPPA, 2015* and remove s. 5.4 of the *Energy Corporation Act* from Schedule A of *ATIPPA, 2015*. – OIPC Submission, Page 84
 - Ultimately, the threshold is so low that the proposal put forward by Nalcor could result in the OIPC being essentially co-opted, or appearing to be co-opted, in a way that could undermine the credibility of the Office. The issue with section 5.4 is that our only oversight role relates to a definitional threshold that is so low it is almost a rubber stamp. It is close to meaningless... We would prefer to have no role or have a meaningful role. In order to achieve this the threshold question must be changed to include an assessment of the alleged harm from release of the information. – OIPC May 14, 2021 Supplemental Submission, Page 13.
 - OIPC Recommendation 17.2: Remove from Schedule A and make corresponding amendments to the *Innovation and Business Investment Corporation Act* and the *Oil and Gas Corporation Act*, both of which, while less well known, contain a very similar statutory scheme to the *Energy Corporation Act*. We detailed our concerns about both in our 2018-2019 Annual Report. – OIPC Submission, Page 84
 - OIPC Recommendation 17.3: Address Recommendation 4 of the Report of the Muskrat Falls Inquiry through means other than an amendment to *ATIPPA, 2015*. – OIPC Submission, Page 84
 - Nalcor Recommendation 1: [Establish an alternative option for applicants who would prefer to avoid making an appeal directly to the Supreme Court]:
 - 1. If a complaint is received by Nalcor in relation to the use of section 5.4, Nalcor will develop an information package that clearly explains the justification for utilizing that section of the ECA.
 - 2. The information package will then be shared directly with the Office of the Information and Privacy Commissioner (OIPC) before any information is shared with Nalcor's Board of Directors.

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- 3. The OIPC will then have time to review Nalcor’s submission and provide a response to the Nalcor Board with any comments, feedback and recommendations with respect to the commercial sensitivity of the applicable records.
 - 4. Nalcor’s Board of Directors will then review Nalcor’s information package and the OIPC’s response and factor them into the Board’s discussion and ultimate decision regarding whether the applicable information should be released or withheld from disclosure under the section 5.4 exception.
 - 5. The final decision from Nalcor’s Board of Directors will be shared with the OIPC detailing Nalcor’s consideration of the OIPC’s feedback. – Nalcor Submission, Page 7
 - OIPC Response: This is not ideal from an oversight perspective, and it could place the Commissioner in an awkward position of being asked to agree that, based on the information package, Nalcor’s decision appears sound, however it may be that had we viewed the responsive records themselves the Commissioner might arrive at a different conclusion. – OIPC May 14, 2021 Supplemental Submission, Page 12.
 - Nalcor Recommendation 4: Nalcor recommends that no changes be made to the current language and application of s. 5.4 of the *ECA*.
 - Innu Nation Recommendation 3: Innu Nation sees no good policy reason for the Information and Privacy Commissioner to be engaged in assessing whether Nalcor has a right to withhold information on grounds of commercial sensitivity where Nalcor has already agreed with a third part that an agreement needs to be treated confidentially. The confidentiality terms of agreements that we have entered into with Nalcor Energy in which we have already agreed to maintain confidentiality should to be allowed to be overridden by the Commissioner becoming involved. – Innu Nation Submission, Page 3
 - Paul Lane Recommendation 1: I believe that Nalcor and Oilco should be required to provide a detailed rationale for any denial of information and that this should be appealable to the province’s Privacy Commissioner. – Paul Lane Submission, Page 1
 - OIPC Response: We were very pleased to hear in the May 10th presentation from JPS that 5.4 of the Energy Corporation Act (ECA) does not need to apply to its hydro line of business, as it was intended to protect the private business relationships in the oil and gas industry. We hope to see such an amendment to the Energy Corporation Act. – OIPC May 14, 2021 Supplemental Submission, Page 12.
 - (f) section 8.1 of the *Evidence Act*;
 - JPS Recommendation 5: Schedule A of the *Act* should continue to contain the *Evidence Act* s. 8.1 as a means of protecting vulnerable and private information from access requests under the ATIPPA, 2015. – JPS Submission, Page 15
 - OIPC Response: Because we are not experts in the processes that lead to the generation of those records, we cannot attest that PHIA would necessarily cover all of the information in every case. We therefore see no urgency to remove section 8.1 of the *Evidence Act* from Schedule A, however we do not take a strong position either way. – OIPC May 14, 2021 Supplemental Submission
 - (g) subsection 24(1) of the *Fatalities Investigations Act*;

- JPS Recommendation 6: s. 24(1) of the *Fatalities Investigations Act* should continue to be included in Schedule A [(g)]. – JPS Submission, Page 16
- (i) section 4 of the *Fisheries Act*;
 - FFA Recommendation 1: FFA must maintain s. 4 of the *Fisheries Act* as protection [ie. Schedule A (i) must be maintained]. FFA does not believe that reliance on s. 29 of ATIPPA, 2015 will necessarily eliminate all circumstances where requests are made to ensure commercially sensitive information is not released. – FFA Submission, Page 4
- (j) sections 173, 174, and 174.1 of the *Highway Traffic Act*;
 - Digital Government and Services NL Recommendation 14: s. 173, 174 and 174.1 under the *Highway Traffic Act* are required and should be continued. – DGSNL Submission, Page 9
 - RNC Recommendation 12a: It is also recommended that s. 173, 174, & 174.1 of the *Highway Traffic Act* as well as subsection 24(1) of the *Fatalities Act* be maintained in “Schedule A” of ATIPPA legislation. – RNC Submission, Page 13
- (m) subsection 13(3) of the *Order of Newfoundland and Labrador Act*;
 - Executive Council Recommendation 16: Continue to include s. 13(3) of the *Order of Newfoundland and Labrador Act* in Schedule A of ATIPPA, 2015. – Executive Council Submission, Page 19
- (m.1) sections 10 and 15 of the *Patient Safety Act*;
 - Department of Health and Community Services Recommendation 1: ... the department recommends the continued inclusion of subsections 10 and 15 of the *Patient Safety Act* in Schedule A of the Act. – HCS Submission, Page 3
 - Western Health Recommendation 1: It has been our experience at Western Health that the exceptions to disclosure set out in the ATIPPA provide an adequate level of protection for personal information in response to requests where personal information also falls under legislation including, but not limited to, the *Patient Safety Act*, *Adult Protection Act*, and *Mental Health Care and Treatment Act*... We anticipate that current protections that reduce such risk will remain in effect following the current review.
- HCS Submission, Annex B, Page 1
- (l.1) section 23 of the *Oil and Gas Corporation Act*;
 - Oil & Gas Co. Recommendation 1: No changes be made that might disrupt the application of s. 23 of the *Oil and Gas Corporation Act*, and that s. 23 continue to be listed as included in Schedule A of the ATIPPA, 2015 for purposes of the application of subsection 7(2) of the Act.
 - (See also Paul Lane Recommendation 1 in Schedule A (e) recommendations above)
- (q) section 12 and subsection 62(2) of the *Schools Act, 1997*;
 - OIPC Recommendation 14.1: Remove s. 62(2) from Schedule A (Schedule A (q)) as it is redundant to s. 28(1)(c). – OIPC Submission, Page 55

- NL English School District Response: the NLESD does not agree with the recommendations of the OIPC that these provisions should be removed from ATIPPA, 2015. – NLESD Submission, Page 1
 - Department of Education Response: We reiterate that the Department does not agree with the recommendations of the OIPC that these provisions of the Schools Act, 1997 should be removed from ATIPPA, 2015... – Dept of Education Submission, Page 1
 - OIPC Recommendation 14.2: Remove the reference to s. 12 of the *School's Act, 1997* (Schedule A (q)) from Schedule A of ATIPPA, 2015. – OIPC Submission, Page 58
 - NL English School District Response: the NLESD does not agree with the recommendations of the OIPC that these provisions should be removed from ATIPPA, 2015. – NLESD Submission, Page 1
 - Department of Education Response: As the legislative review is ongoing, we do not yet know what the recommended changes will be for section 12. It would be premature to make a decision to remove section 12 from Schedule A at this time. – Dept of Education Submission, Page 1
- (r) sections 19 and 20 of the *Securities Act*;
 - Digital Government and Services NL Recommendation 15: s. 19 and 20 under the *Securities Act* are required and should be continued – DGSNL Submission, Page 9
- (s) section 13 of the *Statistics Agency Act*;
 - Department of Finance Recommendation 6: ...it is the opinion and recommendation of the Department of Finance that, as per s. 7(2) of ATIPPA, the *Statistics Agency Act* should continue to be a provision in Schedule A. – Dept of Finance Submission, Page 3
 - Department of Finance (Economic, Fiscal and Statistics Branch) Recommendation 1: It is therefore recommended that the exemption afforded in the *Access to Information and Protection of Privacy Act* to prohibit the disclosure of information collected under the authority of the *Statistics Agency Act* (s. 13) remain to preserve the integrity of the statistical system. – Dept of Finance Submission, Page 6
- (t) section 18 of the *Workplace Health, Safety and Compensation Act*:
 - Workplace NL Recommendation: Section (t) can be removed. There are sufficient protections in ATIPPA, 2015 and s. 18 of the *Workplace Health, Safety and Compensation Act* no longer needs to prevail per s. 7(2) of ATIPPA, 2015. – Department of Immigration, Skills and Labour Submission, Page 1
- Proposed Exemptions:
 - JPS Recommendation 7.2: JPS recommends that s. 28 of the *Public Inquiries Act, 2006* be included in Schedule A of the ATIPPA, 2015.– JPS Submission, Page 19
 - Digital Government and Services NL Recommendation 11: The *Pensions Benefits Act* should be amended to protect the confidentiality of this information and require information be released as set out in s. 25(7). Alternatively, Schedule A of the *Access to Information and*

Privacy Protection Act, 2015 could be amended to include an exemption respecting this information. – DGSNL Submission, Page 7

- OIPC Response: We reiterate our opening statement that any additions to Schedule A should be done purely on the basis of necessity, and if exceptions to access exist in *ATIPPA, 2015* which attain a comparable public policy goal then additions to the Schedule are not warranted. In this instance all personal information would be protected under section 40... Therefore we do not support the addition of the Pension Benefits Act, 1997 to Schedule A. – OIPC May 14, 2021 Supplemental Submission, Page 16
- NL Veterinarian Medical Association Recommendation: Veterinarians who practice primary clinical care within the structure of government should not be forced to breach a global veterinary ethical code. Human medical doctors working in similar roles for the Government of Newfoundland and Labrador are neither asked nor expected to break their ethical code, as they are exempt from requests under the *Access to Information and Protection of Privacy Act*. Veterinarians practicing in the province of Newfoundland and Labrador are requesting the same consideration. – NL Veterinary Medical Association Submission, Page 5
 - NL Veterinarian Medical Association Response: Veterinary records remain confidential under *ATIPPA* – NL Veterinary Medical Association Feb 15, 2021 Supplemental Submission, Page 1
 - OIPC Response: The work of vets and farms that are publically regulated should be accessible. Regarding personal information of users of this system, this should be protected by section 40, while administrative and financial information about provincial vet services offered to private citizens should be accessible. – OIPC Mat 14, 2021 Supplemental Submission, Page 15
- Department of Fisheries, Forestry and Agriculture Recommendation 3: FFA requests that Veterinary Medical Records be protected from public disclosure through the *Access to Information and Protection of Privacy Act* with exceptions to those required by law: 1) to report suspected cases of cruelty against animals and 2) to report a public health risk to Health Canada or a Reportable Disease to the Canadian Food Inspection Agency (CFIA) as required under the *Health of Animals Act*... It is recommended that the Committee's review... include the development of safeguards for veterinary records and that there is clear wording to restrict access to medical record information and protect the privacy of veterinary medical records. Alternatively, Schedule 'A' of *ATIPPA, 2015* could be amended to include the s. 9 (Confidentiality by-law) of the Consolidated By-laws of the Newfoundland and Labrador College of Veterinarians 2020... – FFA Submission, Page 6
- NL Aquaculture Industry Association Recommendation 2: NAIA submits that consideration should be given to the inclusion of subsection 9(4) of the *Aquaculture Act* in Schedule A of the *ATIPPA, 2015*. Alternatively, the protection offered by s. 39 of the *ATIPPA, 2015* should reflect the confidentiality that is intended to apply to participants in the aquaculture industry signaled by subsection 9(4) of the *Aquaculture Act*... NAIA submits the aquaculture industry deserves equally robust and protective treatment of its commercially sensitive information in the custody and control of government [as the oil and gas sector].– NAIA Submission, Page 7
 - OIPC Response: NAIA has not demonstrated how the industry or its members of been impacted significantly by the current state of access to information law, and

therefore we do not agree that additional protections are warranted. – OIPC May 14, 2021 Supplemental Submission, Page 15

- ~~RNC Recommendation 12b: To better promote transparency of the RNC it is recommended that s. 10-17 inclusive of the *Royal Newfoundland Constabulary Regulations* be added to “Schedule A” of the Access to Information and Privacy Act. – RNC Submission, Page 13 – Withdrawn January 19, 2021~~
- Office of the Chief Electoral Officer Recommendation 1: The Permanent List of Electors should only be disclosed in accordance with the *Elections Act* and should not be subject to access under the *ATIPPA*. – Office of the Chief Electoral Officer Submission, Page 1
- Office of the Chief Electoral Officer Recommendation 2: [“Election documents,” “election papers” (as defined in s. 3(b) of the *Elections Act*) and the security of ballot boxes] should not be subject to *ATIPPA* and the legislation should be amended to include reference to s. 3(r), 55(4), 184, and 185 to the *Elections Act* in Schedule A. – Office of the Chief Electoral Officer Submission, Page 2
- (See also Executive Council Alternative Recommendation 2 in ‘Disclosure of House of Assembly service and statutory office record [s. 41]’ recommendations below)

Schedule B

- OIPC Recommendation 16.4: Amend *ATIPPA, 2015* to remove the Commission of Inquiry Respecting the Muskrat Falls Project from Schedule B. – OIPC Submission, Page 69

Request abandonment and applicant duty to assist

- OIPC Recommendation 13.6: Amend Part II, Division 4 to provide that a party to an appeal can make an interlocutory application to seek a ruling that an access to information request can be deemed abandoned if it is not possible to ascertain whether the access to information applicant remains interested in receiving the requested records and all reasonable efforts have been made by the public body to confirm the applicant’s continued interest in the outcome. – OIPC Submission, Page 54
- CNA Recommendation [1.1]: Add a provision to the *ATIPPA* by which a public body can discontinue a request or subsequent court challenge if the applicant ceases to respond after a reasonable time – CNA Submission, Page 2
- (See also OIPC Recommendation 13.6 in ‘Public body notification of applicant on third party appeal [s. 56]’ recommendations above)
- CSSD Recommendation 1 and 2: Legislative amendment which stops the clock while awaiting contact from the applicant and a fixed time, such as 30 days, whereby the request could be disregarded for failure to follow up. – CSSD Submission, Page 1
- Executive Council Recommendation 6: Consideration should be given to modify [s. 13 and/or s.16]. Potentially, amend s.16 to indicate the 20 day processing time should not start until an applicant has clarified the request, where such clarification is sought. Alternatively, amend the section to include a provision similar to s. 8(1) and 8(2) of *Alberta’s Freedom of Information and Protection of Privacy Act*. – Executive Council Submission, Page 8

- OIPC Response: A stop-the-clock provision could also be subject to abuse, whereby a public body wishing to delay a response could continue to send further clarifying questions in order to postpone the deadline for a response. We therefore do not support this recommendation. – OIPC May 14, 2021 Supplementary Submission, Page 34
- IET Recommendation 2: Implement a Duty to Cooperate... This could mirror the ATIPP coordinator’s duty to assist in s. 13 of *ATIPPA, 2015*. A duty to cooperate clause should include provisions for situations where an applicant does not respond to a clarification request; for example, the coordinator may have authority to put the file, and response timeframe, “on hold” until clarification is received. The duty to cooperate should also include guidelines on how to proceed if an applicant is non-responsive for narrowing the scope of an overly broad request or if the applicant is acting ill-mannered towards the coordinator. – IET Submission, Page 4
 - OIPC Response: While we have sympathy for Coordinators in circumstances where applicants, 36 as laypersons, do not understand the pressures faced by Coordinators in carrying out their roles, it is unreasonable and unfair to expect that applicants can be expected to take on a statutory duty of the nature described. – OIPC May 14, 2021 Supplementary Submission, Page 35
- ATIPP Office Recommendation 3.1: Consider whether it would be appropriate/feasible to amend section 13 to include a requirement for the applicant to assist the public body when needed. While this would not be enforceable it would indicate to applicants that their role in communicating with the public body is important as well. – ATIPP Office Submission, Page 11
- ATIPP Office Recommendation 3.2: Consider amending s. 11 of the Act to include similar language to subsection 7(4) of Prince Edward Island’s *Freedom of Information and Protection of Privacy Act (FIPPA)* and subsection 8(1) of *Alberta’s Freedom of Information and Protection of Privacy Act (FIPPA)*... – ATIPP Office Submission, Page 11
- ATIPP Office Recommendation 3.3: Consider amending s. 23 of the Act to allow extensions when there are delays caused by the lack of response from the applicant. Most jurisdictions in Canada have similar language to s. 12 of Prince Edward Island’s *FIPPA*, which outlines the circumstances under which a public body can extend the time for responding to a request. This includes if “the applicant does not give enough detail to enable the public body to identify the requested record.” – ATIPP Office Submission, Page 11
- Department of Transportation and Infrastructure Recommendation 2: Should an applicant be non-responsive to emails or other forms of documented communications from the ATIPP coordinator after 20 business days (with the timeline paused), consideration might also be given to considering the request disregarded and notice be sent to the applicant that the request is to be considered abandoned. – TI Submission, Page 2
- Department of Finance Recommendation 2: Suggest, in view of section 13 of *ATIPPA* “duty to assist,” that legislation reinforce due diligence on applicants to assist with the processing. Therefore, it is recommended that amendments to be made to the current legislation (i.e. when an applicant does not respond to a department’s request for clarification within 30 days, that the Department be given the authority to abandon the request.) – Dept of Finance Submission, Page 1
- Department of Health and Community Services Recommendation 5: The department recommends the Committee consider the potential of legislating the onus on the applicant to provide sufficient detail in their request. This recommendation would ensure a degree of responsibility is placed on

the applicant to ensure that sufficiently specific information is provided to allow the request to be processed as efficiently as possible. – HCS Submission, Page 6

Frivolous and vexatious applicants

- City of Corner Brook Recommendation 1: Limit the number of concurrent requests to allow for a reasonable service workload. – City of Corner Brook Submission, Page 1
- City of Corner Brook Recommendation 2: Determine clearer standards for vexatious appeals. – City of Corner Brook Submission, Page 1
- City of Corner Brook Recommendation 3: If an applicant to an *ATIPPA* request is involved in litigation against a public body they should be prohibited from submitting an *ATIPPA* request on the same topic. – City of Corner Brook Submission, Page 1
- City of Mount Pearl Recommendation 4: If an Applicant has a history of repeatedly submitting vexatious requests, it is recommended that the Commissioner label said Applicant as a Vexatious Applicant... Further, it could be limited to a specific period of time as to ensure the Applicant is held accountable but also has the opportunity to access the right to information in the future. – City of Mount Pearl Submission, Page 5
- NL English School District Recommendation 3: ...Consideration should be given to putting limitations on the number of requests per applicant to process within the same time frame. – NLESD Submission, Page 2
- (See also City of St. John’s Recommendation 2 in ‘Disregards [s.21]’ recommendations above)
- MUN Recommendation 4: Memorial University recommends a limit on the number of concurrent requests made by the same applicant. – MUN Submission, Page 3
 - Anton Oleynik Response: If the Public Body was empowered to restrict the number of requests made by the same applicant, the effect would be radically different. On the one hand, by placing an *ATIPP* request in obedience the Public Body avoids the need to conduct a search and to preserve the records. The responsive records could be destroyed with impunity by the time when the Public Body actually processes the request. On the other hand, the applicant simply has no alternative course of action. S/he cannot bring the matter before the Trial Division hoping that the Court’s intervention would assist in accessing the records sought. – Anton Oleynik Submission, Page 16
- MUN Recommendation 7: Memorial University recommends that s. 21 be amended to provide better oversight of abuses of the legislation and to give remedial effect to that purpose:
 - Memorial University recommends that Newfoundland and Labrador adopt the approach used in the Province of Ontario, where a public body can disregard a request that is an abuse of the legislation without approval from the Information and Privacy Commissioner.
 - Memorial University recommends that an applicant ought to be permitted to complain to the Information and Privacy Commissioner about, or appeal directly to the Supreme Court about, a public body’s decision to disregard a request. The Commissioner should have an opportunity to investigate and prepare a Report. The Report should be provided to both the public body and the applicant, and there should be an opportunity for either party to appeal a Report of the Information and Privacy Commissioner to the Supreme Court.

- Memorial University recommends that the Information and Privacy Commissioner and the Supreme Court of Newfoundland and Labrador ought to have the remedial authority to craft a remedy that is necessary to rectify and prevent the harm caused by abuse of the legislation, such as placing restrictions on an applicant's ability to file requests, and declaring someone a vexatious applicant for abuse of the legislation through any of the statutorily enumerated forms of abuse.
- Memorial University recommends that there should be a separate and independent provision enabling a public body to apply to both the Information and Privacy Commissioner or the Supreme Court of Newfoundland and Labrador to have someone declared a vexatious applicant for abuse of the legislation. This would preclude the necessity of an applicant filing a complaint or appeal regarding a disregard, in order for a public body to advance a declaration application on its own merit.
- Memorial University recommends that the Information and Privacy Commissioner ought to have a right of intervention on an appeal to Court regarding a decision to disregard a request, or an application to Court to have someone declared a vexatious applicant.
– MUN Submission, Page 3
- ATIPP Office Recommendation 7.2: Consider amending s. 21 of the Act to allow the OIPC to limit future requests. – ATIPP Office Submission, Page 24
- OCIO Recommendation 1b(i): An expedited process should apply to applicants who make unduly repetitive requests or otherwise abuse the ATIPP request process. In particular, unduly repetitive applicants should only require a short submission to the OIPC, which would include evidence of past requests for disclosure, to substantiate that their request has already been addressed. – OCIO Submission, Pages 1-2
- Town of St. Georges Recommendation 1: ...could you possibly provide an avenue for us to cope with this issue, examples would be 1, Nuisance clause 2, ability to charge after 1 hour per request 3. Limit the amount of request per individual etc – town of St. Georges Submission, Page 1

Consulting other public bodies when document originate from that public body

- RNC Recommendation 6: The RNC recommends that *ATIPPA, 2015* be updated to include a section that outlines the requirement to consult with applicable government departments and public bodies to ensure the release of accurate and complete information and to ensure that all possible exceptions to disclosure are considered that may not be considered by the public body that received the request.
– RNC Submission, Page 7

The OIPC as a public body

- OIPC Recommendation 16.7: Amend *ATIPPA, 2015* to allow the Commissioner to apply ex parte to the Trial Division for approval in regard to sections 21, 23 and 24 in the same way and for the same circumstance that would ordinarily see a public body apply to the Commissioner for such approval.
– OIPC Submission, Page 73
- RNC Recommendation 9a: It is recommended that additions be made to the Act to ensure that the OIPC is held accountable for their work and requirements put in place to ensure effective and timely

communication regarding their investigations, including status updates of the investigation, be made to both the affected individuals and public bodies. – RNC Submission, Page 9

Whistleblower protection

- OIPC Recommendation 4.4: Provide whistleblower protection to employees of public bodies to protect them from reprisals for taking actions to prevent contravention of the *Act*. – OIPC Submission, Page 25
- OIPC Response: JPS indicated they would consider your recommendations regarding gaps in the current whistleblower legislative regime but that they felt no oversight needed to be added to this Office’s duties. We do not specifically request this authority, in fact, our original recommendation 4.4 was that this review “provide whistleblower protection to employees of public bodies to protect them from reprisals for taking actions to prevent contravention of the *Act*.” We reiterate this now and ask that you ensure this important protection is not lost in the discussion of who should bear the responsibility for oversight. – OIPC May 14, 2021 Supplemental Submission, Page 44
- (See also City of St. John’s Recommendation 11 in ‘Workplace investigations [s.33]’ recommendations)

Duty to document

- (See also OIPC Recommendation 7.5 in ‘Artificial Intelligence’ recommendations above)
- OIPC Recommendation 3.1: Amend the *Management of Information Act* to legislate a Duty to Document for entities subject to that legislation, providing for OIPC oversight. Consider whether to broaden the scope of public bodies to which the Duty to Document would apply, to all public bodies subject to *ATIPPA, 2015* except those that are subject to the *Municipalities Act, 1999*. – OIPC Submission, Page 22
- Paul Lane Recommendation 2: I fully concur with the province’s Privacy Commissioner that we should have Duty to Document Legislation... It is well known throughout Govt that there are far too many verbal reports being made on any number of important matters in order to avoid having that information subject to ATIPPA requests. This must stop. – Paul Lane Submission, Page 1

Non-responsive information

- Executive Council Recommendation 10: Amend *ATIPPA, 2015* to include a section that provides for the exclusion of non-responsive information. – Executive Council Submission, Page 13
- IET Recommendation 6b: Change OIPC policy on responsive information within a record... Understandably, it is frustrating for departmental staff to spend significant amounts of time determining and applying redactions to information that is not related to the request. Having the approval and support from the OIPC to flag information as non-responsive would eliminate processing time for the department. – IET Submission, Page 7
- ATIPP Office Recommendation 4: Consider amending s. 8 of the *Act* to allow for non-responsive information within a responsive record to be withheld from disclosure as non-responsive... - ATIPP Office Submission, Page 13

- OIPC Response: OIPC guidance on the issue may be found here, and we believe it strikes the appropriate balance. Ultimately, our view is that communication with the applicant can always resolve any confusion around whether an entire record, or simply a section of it, is being requested by an applicant. – OIPC May 14, 2021 Supplemental Submission, Page 24

Biometrics

- (See also OIPC Recommendations 6.1 and 6.2 in ‘Definitions [s. 2]’ recommendations above)
- (See also OIPC Recommendation 6.3 in ‘Privacy impact assessment [s. 72]’ recommendations above)

Artificial Intelligence

- (See also OIPC Recommendation 7.1 in Definitions recommendations above)
- OIPC Recommendation 7.2: Require algorithmic assessments to be conducted by any public body prior to implementation of a program involving the use of artificial intelligence. – OIPC Submission, Page 38
- OIPC Recommendation 7.3: Require a public body intending to develop and implement a program involving the use of artificial intelligence to notify the Commissioner of that intention and engage the Commissioner at an early stage of the development of that program, including providing to the Commissioner a copy of an algorithmic assessment for review and comment by the Commissioner prior to implementation of the program. – OIPC Submission, Page 38
- OIPC Recommendation 7.4: In addition to privacy and access to information issues, in its review and assessment, the OIPC should be entitled to comment on all implications for the use of AI in the proposed program, including data ethics factors such as proportionality, fairness and equity, in a manner comparable to a Data Commissioner; to this end, amendments to the purpose of the *ATIPPA, 2015* would be required to reflect the added mandate for an independent oversight agency that is empowered to review and comment on the implications, including privacy and data ethics implications, for the implementation of artificial intelligence in public body programs. Comparable powers or duties would need to be added to s. 95. – OIPC Submission, Page 38
- OIPC Recommendation 7.5: Introduce a special Duty to Document requirement for Artificial Intelligence applications that requires that records of processing activities be maintained. – OIPC Submission, Page 39

Political parties

- OIPC Recommendation 8.1: broaden the scope of *ATIPPA, 2015* to include political parties by adding “registered political party” to the definition of a public body in s. 2; and make corresponding amendments to s. 5 to limit the access to personal information collected, access and used by political parties; and make further amendments to s. 5 to ensure that only the appropriate privacy sections of the *Act* apply to political parties. – OIPC Submission, Page 40
 - PC Party Response: ... treating a registered political party as a public body for the purpose of privacy legislation, is inherently problematic in encouraging and facilitating government

oversight of political activities, and is frankly, impractical given the lack of resources available to political parties in attempting to ensure compliance with same. – PC Submission, Page, 1

- OIPC Response: in our view the position that parties may not have the necessary capacity to manage and protect personal information is in itself a strong indication that a legislative framework with statutory oversight is called for...As we indicated in our presentation on May 12th, we are less concerned about who is charged with the authority to oversee privacy concerns involving political parties' use of personal information, as long as someone is. Currently political parties are outside the Act and they are not covered elsewhere... - OIPC May 14, 2021 Supplemental Submission, Page 42

Indigenous issues

- OIPC Recommendation 11.1: Initiate consultation with Indigenous organizations and governments in Newfoundland and Labrador, among other stakeholders such as the Intergovernmental and Indigenous Affairs Secretariat, to consider whether and how Indigenous organizations and governments could be referenced in the statute. – OIPC Submission, Page 48

Municipalities

- ATIPP Office Recommendation 14: Consider whether it would be appropriate to legislate a threshold based on either population (for instance less than 100 residents) or budgetary (for instance less than \$50,000) for exclusion from the access provision of the Act. Given the Act may be the only oversight mechanism in place for municipalities in the province, in may be inadvisable to exclude smaller municipalities for the access provisions of the Act. – ATIPP Office Submission, Page 37
- ATIPP Office Recommendation 15:
 - Consider suggestions listed under part 1.1 of this submission to amend the definition of “business day” to account for public bodies that are not open five days a week;
 - Consider suggestions listed under part 8 of this submission in relation to extensions; and
 - Consider amending section 16 of the Act to allow a longer time period than 20 days for smaller municipalities to respond to requests.– ATIPP Office Submission, Page 38
- ATIPP Office Recommendation 16:
 - Consider suggestions provided in s. 7 of this submission; and
 - Consider amending s. 21 of the Act to allow a group or series of requests, which are analogous to a single request, to be treated as a single request for the purpose of determining whether a request is overly broad in the context of an application to disregard. – ATIPP Office Submission, Page 39
- ATIPP Office Recommendation 17:
 - Consider suggestions made in section nine of this submission in relation to costs;
 - Consider amending s. 25 of the Act to allow very small municipalities (based on either population or budget), or those which receive a significant number of requests from one applicant, to charge reasonable fees related to material resources expended processing requests on a cost recovery basis.
 - Consider removing or reducing the amount of free time smaller municipalities are required to provide for each request (perhaps revert to four free hours for smaller municipalities). – ATIPP Office Submission, Page 40

- (See also ATIPP Office Recommendation 18 in ‘Local public body confidences’ recommendations above)
- (See also ATIPP Office Recommendation 19 in ‘Designation of head by local public body’ recommendations above)

Coordinator and public body ATIPPA training

- City of Corner Brook Recommendation 6: Encourage the provincial government to provide additional financial and training support so that municipalities have the adequate resources to respond to ATIPPA requests as efficiently as possible... – City of Corner Brook Submission, Page 2
- RNC Recommendation 8: It is recommended that the Policy and Procedures Manuals [are consistent with the legislation and] clearly and concisely outline the required processes when [applying] ATIPPA. (eg. The policy manual instructions require acknowledgement letters). – RNC Submission, Page 8

Coordinator positions, classification, and salary scale

- Department of Tourism, Culture, Arts and Recreation Recommendation 1: Currently, there is no classification of duties or salary scale for ATIPP coordinators... ATIPP coordinators should be in a senior role to comfortably advocate on behalf of applicants to senior management and the executives of public bodies... - TCAR Submission, Page 2
- Digital Government and Services NL Recommendation 13: Amendments to the Act to reduce administrative burden and provide coordinators with more control to manage their workloads would help relieve some of the pressures on coordinators. Consideration should be given to splitting the duties of a coordinator between two or more roles, to provide flexibility and help alleviate the stress one individual. – DGSNL Submission, Page 9

Testing procedures, tests, and audits

- Digital Government and Services NL Recommendation 10.2: The Act should also be amended to include an exemption for records captured under testing procedures, tests and audits as is done in other jurisdictions [eg. s. 24 of PEI’s FOIPPA]. – DGSNL Submission, Page 7

Acknowledgement Letters

- (See also RNC Recommendation 8 in Coordinator and public body ‘ATIPPA training’ recommendations below)
- IET Recommendation 1a: Implement an automatic acknowledgement email for requests – IET Submission, Page 3
- Digital Government and Service NL Recommendation 3: While not a legislative change, it is recommended this process be automated, so when a coordinator clicks the “Confirm Receipt” button, an email response is generated requiring the coordinator to simply hit send on the email. This would reduce administrative work for the coordinator and reduce the potential for a privacy breach. If a

request is received by mail or telephone, the current protocol would apply, and an Acknowledgement Letter would be mailed or read to the applicant. – DGSNL Submission, Page 2

Information Management and IT support

- City of Corner Brook Recommendation 7: It would be beneficial if municipalities could avail of IT/IM solutions through the provincial government central purchasing branch (Public Procurement Agency). – City of Corner Brook Submission, Page 2
- Centre for Law and Democracy Recommendation 4.3: Insert a new section that obliges public bodies to create minimum standards for the filing of records. – Centre for Law and Democracy Submission, Page 12
- Department of Education Recommendation 1: Recommend suitable revisions to the On-Line Request System to expand the drop-down menu to include public bodies other than the listed government departments (eg. include the NL English School District and the Conseil scolaire francophone provincial de Terre-Neuve-et-Labrador). – Dept of Education Submission, Page 1
- (See also IET Recommendation 1a in Acknowledgement letters recommendations above)
- IET Recommendation 1b: Merge the ATIPP HPRM/TRIM and the ATIPP Time Tracker databases. – IET Submission, Page 3
- (See also Digital Government and Service NL Recommendation 3 in Acknowledgment letters recommendations above)
- (See also OCIO Recommendation 4 in ‘Disclosure harmful to law enforcement [s. 31]’ recommendations’ above)
- (See also MUN Recommendation 12 in ‘Disclosure harmful to law enforcement [s. 31]’ recommendations’ above)

Other processes to access public body information

- OIPC Recommendation 16.3: Amend *ATIPPA, 2015* so that there is a single provision containing language regarding the relationship between the access to information process and other processes, to make it clear that while other processes can continue to operate, *ATIPPA, 2015* is always an option. (eg. “(3) This Act is intended to complement and does not replace other procedures for access to information or limit access to information that is not personal information and is available to the public”) – OIPC Submission, Page 68
- Department of Environment, Climate Change and Municipalities Recommendation 4: Greater clarity be provided in the Act regarding the apparent conflict between s. 3(3) and s. 5(2) on the matter of whether the Act can replace processes where information is provided for a fee. – ECCM Submission, Page 3
- City of St. John’s Recommendation 3: Without deterring from its purpose, the Act should include language discouraging individuals from using it to obtain records that should otherwise be obtained through other means (e.g. litigants already in litigation). Perhaps this could be included as another ground for a disregard. – City of St. John’s Submission, Page 1

- Executive Council Recommendation 3: Amend section 3 (or potentially section 5) to provide that the ATIPP process does not apply to situations where another process (e.g., ongoing litigation or Crown Lands information requests) is established or has been engaged. Alternatively, amend s. 21 to permit the public body to disregard such requests. – Executive Council Submission, Page 7
- NL English School District Recommendation 1: [Document discoveries] Consideration should be given to requests for information/records, particularly from law firms, that are part of ongoing judicial or quasi judicial processes, or where information is being sought to advise clients on a potential legal action... – NLESD Submission, Page 1
- ATIPP Office Recommendation 2.1: Consider amending s. 5 of the Act to preclude applicants from submitting requests for records that can be obtained through other processes.
 - Alternatively, if it is determined that this is inappropriate, consider amending:
 - s. 21 of the Act to allow a public body to disregard such requests with the approval of the OIPC; and/or
 - s. 25 of the Act and the cost schedule so that public bodies can charge applicants for processing these requests (including those personal in nature) with no free hours and in addition to whatever cost would be associated with accessing these records through the other process (if applicable). – ATIPP Office Submission, Page 10
- OIPC Response: The Department’s position is contrary to the purpose of the Act as making these amendments would diminish the number of avenues for access to information by limiting applicants to time consuming and potentially costly procedures, which in no way upholds the aims of transparency and accountability of public bodies. – OIPC May 14, 2021 Supplemental Submission, Page 38

APPENDIX E: ATIPPA REVIEW HEARING SCHEDULE

MONDAY JANUARY 18, 2021

9:30am – 11:00am	Block 1	Office of the Information and Privacy Commissioner	<ul style="list-style-type: none"> • Michael Harvey, Information and Privacy Commissioner (in person) • Sean Murray, Director of Research and Quality Assurance (in person)
11:00am – 11:15am	Break		
11:15am – 1:00pm	Block 2	Office of the Information and Privacy Commissioner	<ul style="list-style-type: none"> • Michael Harvey, Information and Privacy Commissioner (in person) • Sean Murray, Director of Research and Quality Assurance (in person)
1:00pm – 2:00pm	Lunch		
2:00pm – 4:00pm	Block 3	Centre for Law and Democracy	<ul style="list-style-type: none"> • Toby Mendel, Executive Director (videoconference) • J.Y. Hoh, Legal Officer (videoconference)

TUESDAY JANUARY 19, 2021

9:30am – 11:00am	Block 1	Law Society of Newfoundland and Labrador	<ul style="list-style-type: none"> • Aimee Rowe, General Counsel (videoconference) • Brenda Grimes, QC, Executive Director (videoconference)
		Canadian Bar Association – Newfoundland and Labrador	<ul style="list-style-type: none"> • Koren Thomson, Chair of the CBA-NL Privacy and Access Law Section (in person)
11:00am – 11:15am	Break		
11:15am – 1:00pm	Block 2	Newfoundland and Labrador English School District	<ul style="list-style-type: none"> • Bernadette Cole Gendron, Solicitor (in person)
		College of the North Atlantic	<ul style="list-style-type: none"> • Heidi Staeben-Simmons, Associate Vice President - Public Affairs (in person) • Donna Eldridge, Access and Privacy Coordinator (in person)
		Memorial University of Newfoundland	<ul style="list-style-type: none"> • Morgan Cooper, General Counsel (in person) • Stephen Greene, Chief Information Officer (in person) • Rosemary Thorne, University Access and Privacy Advisor (in person)

1:00pm – 2:00pm	Lunch		
2:00pm – 4:00pm	Block 3	Oil & Gas Co. of Newfoundland and Labrador	<ul style="list-style-type: none"> • Alex Templeton, Counsel (in person) • Jim Keating, Executive Vice-President (in person)
		Nalcor Energy	<ul style="list-style-type: none"> • Grant Hiscock, Access and Privacy Officer (in person) • Peter Hickman, Counsel (in person)

WEDNESDAY JANUARY 20, 2021

9:30am – 11:00am	Block 1	Royal Newfoundland Constabulary	<ul style="list-style-type: none"> • Gorvin Greening, ATIPP Coordinator (in person) • Kim Harding, Executive Director (in person) • Dale Evans, Acting Director – Information Management (in person)
		Anton Oleynik	<ul style="list-style-type: none"> • Anton Oleynik, Professor (in person)
11:00am – 11:15am	Break		
11:15am – 1:00pm	Block 2	Edward Hollett	<ul style="list-style-type: none"> • Edward Hollett, private citizen (in person)
		Heavy Civil Association of Newfoundland and Labrador	<ul style="list-style-type: none"> • Jim Organ, Executive Director (in person)
1:00pm – 2:00pm	Lunch		
2:00pm – 4:00pm	Block 3	Newfoundland and Labrador Aquaculture Industry Association	<ul style="list-style-type: none"> • Mark Lane, Executive Director (videoconference)
		Newfoundland and Labrador Veterinary Medical Association	<ul style="list-style-type: none"> • Dr. Nicole O'Brien, Veterinarian (in person) • Dr. Julia Bulfon, Veterinarian (in person)

THURSDAY JANUARY 21, 2021

9:30am – 11:00am	Block 1	Memorial University of Newfoundland	<ul style="list-style-type: none"> • Morgan Cooper, General Counsel (in person) • Stephen Greene, Chief Information Officer (in person) Rosemary Thorne, University Access and Privacy Advisor (in person)
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FRIDAY JANUARY 22, 2021

No Scheduled Hearings

MONDAY JANUARY 25, 2021

No Scheduled Hearings

TUESDAY JANUARY 26, 2021

9:30am – 11:00am	Block 1	Commissioner for Legislative Standards Office of the Chief Electoral Officer	<ul style="list-style-type: none"> • Bruce Chaulk, Commissioner for Legislative Standards and Chief Electoral Officer (in person) • Andrew Fitzgerald, Counsel (in person)
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WEDNESDAY JANUARY 27, 2021 – SECTION 33 (WORKPLACE INVESTIGATIONS) ROUNDTABLE

9:30am – 11:00am		Participants: <ul style="list-style-type: none"> • Office of the Information and Privacy Commissioner <ul style="list-style-type: none"> ○ Michael Harvey, Information and Privacy Commissioner (in person) ○ Sean Murray, Director of Research and Quality Assurance (in person) • Centre for Law and Democracy
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<p>11:00am – 11:15am</p>	<p>Break</p>	<ul style="list-style-type: none"> ○ Toby Mendel, Executive Director (videoconference) ○ J.Y. Hoh, Legal Officer (videoconference) ● Newfoundland and Labrador English School District <ul style="list-style-type: none"> ○ Bernadette Cole Gendron, Solicitor (in person) ● College of the North Atlantic <ul style="list-style-type: none"> ○ Heidi Staeben-Simmons, Associate Vice President - Public Affairs (in person) ○ Donna Eldridge, Access and Privacy Coordinator (in person)
<p>11:15am – 1:00pm</p>		<ul style="list-style-type: none"> ● City of Mount Pearl <ul style="list-style-type: none"> ○ Cassie Pittman, Director of Corporate Services at City of Mount Pearl (in person) ○ Darren Wall, ATIPPA Coordinator (in person) ● Anton Oleynik <ul style="list-style-type: none"> ○ Anton Oleynik, Professor (in person) ● City of St. John’s <ul style="list-style-type: none"> ○ Katie Philpott, Counsel (in person)

THURSDAY JANUARY 28, 2021 - SECTION 39 (THIRD PARTY BUSINESS INTERESTS) ROUNDTABLE

<p>9:30am – 11:00am</p>	<p>Block 1</p>	<p>Participants:</p> <ul style="list-style-type: none"> ● Office of the Information and Privacy Commissioner <ul style="list-style-type: none"> ○ Michael Harvey, Information and Privacy Commissioner (in person) ○ Sean Murray, Director of Research and Quality Assurance (in person) ● Centre for Law and Democracy <ul style="list-style-type: none"> ○ Toby Mendel, Executive Director (videoconference) ○ J.Y. Hoh, Legal Officer (videoconference)
<p>11:00am – 11:15am</p>	<p>Break</p>	<ul style="list-style-type: none"> ● Heavy Civil Association of Newfoundland and Labrador <ul style="list-style-type: none"> ○ Jim Organ, Executive Director (in person) ● Edward Hollett <ul style="list-style-type: none"> ○ Edward Hollett, private citizen (in person)

11:15am – 1:00pm	Block 2	<ul style="list-style-type: none"> • Newfoundland and Labrador Aquaculture Industry Association <ul style="list-style-type: none"> ○ Mark Lane, Executive Director (videoconference) • College of the North Atlantic <ul style="list-style-type: none"> ○ Heidi Staeben-Simmons, Associate Vice President - Public Affairs (in person) ○ Donna Eldridge, Access and Privacy Coordinator (in person) • City of St. John's <ul style="list-style-type: none"> ○ Katie Philpott, Counsel (in person)
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FRIDAY JANUARY 29, 2021

No Scheduled Hearings

--- Hearings Suspended ---

MONDAY MAY 10, 2021

9:30am – 11:00am	Block 1	Department of Justice and Public Safety (on behalf of all government departments) ATIPP Office Animal Health Division	<ul style="list-style-type: none"> • Philip Osborne, JPS Counsel (in person) • Jessica Pynn, JPS Counsel (in person) • Sonja El-Gohary, Director, ATIPP Office Director (in person) • Dr. Beverly Dawe, Chief Veterinary Officer (in person)
11:00am – 11:15am	Break		
11:15am – 1:00pm	Block 2		

WEDNESDAY MAY 12, 2021

9:30am – 11:00am	Block 1	Office of the Information and Privacy Commissioner (Response)	<ul style="list-style-type: none"> • Michael Harvey, Information and Privacy Commissioner (in person) • Sean Murray, Director of Research and Quality Assurance (in person)
11:00am – 11:15am	Break		
11:15am – 1:00pm	Block 2		

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APPENDIX F: ATIPP COORDINATOR ANONYMOUS SURVEY RESPONSES

1. WHAT IS THE MOST CHALLENGING ASPECT OF YOUR ROLE AS AN ATIPP COORDINATOR?

The most challenging aspect of my role as an ATIPP Coordinator is dealing with the administrative/procedural aspects of the Act such as timelines, extension process, and formal correspondence to applicants, etc. The administrative work takes precious time away from response time and seems more like a formality than actually adding anything of benefit to the request process. This is exceptionally true when you have a good working relationship with the applicant and it almost seems silly to send such generic letters as the 10-day advisory response.

The most challenging aspect of my role is the administrative burden of the Act. Since ATIPPA, 2015 came into force the volume of access to information requests has increased by over 300%. Part of this can be attributed to the removal of the \$5 application fee. But along with the removal of the fee, there was also a removal of accountability and participation from the applicant. Many requests are vague, request records over a large period of time, require large amounts of Human Resources within the department to process and involve large volumes of responsive materials. The Act outlines my duty to assist an applicant, however, there is no obligation for the applicant to work with me.

Additionally, trying to work with the OIPC has proven challenging. There is a lack of support from the OIPC in relation to extensions, disregards and investigations. For example, when requesting an extension, without explanation the OIPC will potentially approve the extension but with what appears to be an arbitrary number. Very rarely is it what has been requested. This is very frustrating. As an ATIPP Coordinator, am I not in the best position to determine how much time I need versus someone who has never processed an ATIPP request?

I think the thing I find most challenging is when our public body receives an influx of requests. With all of the strict timelines within the 20 days to respond, it can be difficult ensuring that these timelines are met when you are trying to process so many requests at once. I don't find it overly difficult for the most part, but when dealing with larger numbers of requests I have to prioritize tasks. This may result in a 10 day advisory notice being sent on day 11 rather than day 10. While it is past the legislated deadline, the 15 day deadline for requesting an extension may take priority over that advisory response, or I may simply have missed it.

Completing requests on time and correctly given the limited time that there is to finish them. This is also harder when there are a lot of requests at one time and also depends on the level of support from the executive and the OIPC (extensions, disregards, etc.)

Sometimes it's difficult to determine how much information you can share.

The most challenging aspect of my role as ATIPPA Coordinator is meeting the timelines given that I have to juggle my ATIPPA responsibilities while still having to deal with competing priorities associated with my position as [redacted]. There is no additional staff assigned to assist with the major ATIPPA requests.

In addition, from an Information Management perspective, I believe there are IT systems that could assist us in better processing requests, however, we do not have the expertise in-house to identify the best systems. It would be helpful if guidance could be provided at the provincial level to assist municipalities identify systems to help improve their capability to respond to ATIPPA requests.

Having to devote the majority of my resources to one vexatious requester who uses the ATIPPA as a weapon and form of information warfare against [redacted]. The ATIPPA itself offers little protection from the abuse of the Act, apart from seeking approval from the OIPC to disregard a request. [redacted] Neither the OIPC nor the Court can, under the Act, declare a requester vexatious nor can they impose limits. The time and resources consumed by this one applicant's requests, complaints to the OIPC and court cases are exorbitant and extremely stressful.

Processing ATIPP request is a tedious detailed task. Our entity receive ATIPP request sporadically. Staying fresh on ATIPP processing is sometimes challenging.

I find it difficult to meet the timelines given the amount of requests the department receives and the tight deadlines given in the legislation. I also find it difficult to comfortably take my personal time like lunch breaks or personal days knowing that I am under such strict deadlines and the work is waiting for me (and likely increasing) for when I return.

Timelines are challenging with being able to meet with the head of the public body and respond to a request. It must be stated that the head of our public body is cooperative and helpful. We have never missed a deadline except for one time due to an exceptional circumstance. 20 business days may seem like plenty of time. However, that time passes very quickly when you factor in additional requests, the demands of the privacy side of the ATIPPA, 2015, as well as other duties. Deadlines.

As a coordinator for a small public body, there are no significant challenges with respect to my role.

Coordinators have little control over their workload, including the number and frequency of requests. Requests range from simple straightforward requests to large and complicated. Records may be held by 1 person or the search may require a large number of staff, including staff now located other departments. Records may require consults with other public bodies within government or external and consults with third parties. This coupled with the large administrative burden and short timelines can, at times, make this role very challenging. There is no pause to the volume of work and while extensions can help, delaying a file does not change the amount of work. In addition, in my role I am responsible for [redacted] and these too have pressing deadlines.

Time. 20 days is usually sufficient to process a request if you have one request. However, 20 days is not enough time to receive request, gather records, do initial redactions, consult subject matter experts, prepare package of records and get executive approval for release when you have dozens of active requests at once.

Being able to provide the information correctly.

Balancing the ATIPP requirements with all of the other responsibilities I have. Getting timely responses from people regarding records.

Keeping up with all the nuance and changes within the province and the country. The rate at which requests can come in and the resources to complete them in a timely manner. It is an add-on to my permanent role. While I receive few access requests, at times it can be hectic.

Another challenging aspect is the reluctance of some executive staff to agree with what may be normally considered a responsive record.

Sometimes time and required office support , we have at times, a very busy working periods, especially around budget and audit times!

The most challenging aspect of this role is the time constraints. Time is an issue especially when ATIPP is not my only responsibility. When an ATIPP request is received, all [redacted] activities are put on hold to process the request. This negatively affects my ability to maintain and move my program forward.

Workload management, lack of public awareness of principles/purposes of the Act.

I love processing ATIPP requests but, time management is the most challenging aspect of my role as an ATIPP Coordinator. ATIPP coordinator is a secondary duty for me in my public body. However, ATIPPA timelines mean that my secondary duties as ATIPP coordinator supersede my primary job. Our public body processes a large number of requests annually and because the volume and timing of requests are often unpredictable I make sure that requests are processed as soon as possible in anticipation of a potential influx and backlog. Therefore my primary job (the job I was hired for) often gets put on the back burner.

Making sure that all information release is correct and that no privacy is breached.

[Redacted]

The public's misunderstanding of ATIPP - may continue to use ATIPP as a back door to get a different result. Lack of public awareness and ability to limit these types of requests remains a challenge.

I had someone questioning someone else property and i was very cautious on what information to give.

The most challenging is trying to gather all the correct information and determining if you have answered everything requested.

Managing time Time frames should be frozen when seeking input from applicant which often takes days for a response causing many other issues.

Being in a single person office, with all the responsibilities of a [redacted], I find it difficult to keep abreast with all ATIPP timelines and workings.

Trying to ensure there is enough time to dedicate to the ATIPP process while ensuring the other duties of my job are covered.

Meeting the demands of my job is the most challenging part of my role as ATIPP Coordinator. I have watched the workload steadily increase over the years and there will soon come a time where those demands will not be able to be met unless the resources in place increase. Information requests are more frequent (and often more complicated/broad); privacy concerns and the need for privacy assessments more prevalent; and my role more recognized and utilized throughout the organization. In my opinion, this is all very positive; however, the demand is quickly becoming too great to meet deadlines, adequately train staff, properly assess projects for privacy compliance, etc.

The volume of work associated with processing a request when there is more than one at a time, as this work has to be balanced with other duties.

Toss up between applicants requesting everything under the moon and lack of urgency and respect for timelines when getting information, responses and approvals. Not being in an Executive position adds challenges too.

It has evolved over time. The early days lacked meaningful training (ATIPP legislation and processing, and no redaction software training at all; had to learn by mistakes), while more recently my ATIPP work is filtered through additional levels such as manager or director before sending to ADMs for their approval.

Additionally, the number of bodies that have input or direct me on my ATIPP work make it difficult. ATIPP office in JSP, OIPC, executive Council, JSP solicitors have given direction on ATIPP issues and OIPC investigations that I am not comfortable with (to the point of being coercive).

[Redacted], we don't often get requests, but when we do, I feel I am being a bother to the ATIPP office asking so many questions because it's not being dealt with on a regular basis, the rules and regulations change so often, i get so overwhelmed when we do receive a request.

I am a back-up coordinator. But I would have to say, multiple ATIPP at the same time. But then again, that is the job. More ATIPP dividing up of duties/actual request's. Would be a great help to the actual ATIPP Coordinator. Maybe even a change in Salary leveling for the back- up, so as to encourage this.

Instances when there are excessive numbers of requests ongoing at the one time. There should be a cap for departments to have active and queue of sorts as place holders for applicants. It is also challenging receiving requests which you know are of ill intent or vexatious and cannot prove it. The ability applicants have to submit as many requests as they choose and become what I would deem nuisance is also quite bothersome. There should be better provisions in place for coordinators whom experience harassment, bullying, excessive nuisance requests. Individuals should not be able to take advantage of a process implemented to ensure transparency and accountability.

There are a couple of challenges that I face as an ATIPP Coordinator.

#1 - Locating records in a timely manner - After taking over this position, mismanagement of files make it very difficult to find records that are located. Sometimes it is almost impossible to locate.

#2 – [Redacted], when we get a significant amount of requests, the lack of staffing causes difficulty. ATIPP can be very time consuming, so working with minimal work poses a strain.

1. Time Management - I still have all of my normal work to complete as well.
2. Responses from council from my requests for information from them.

2. DO YOU HAVE THE RESOURCES NECESSARY TO DO YOUR JOB? IF NOT, WHAT DO YOU NEED?

Yes.

Yes.

I would say yes for the most part. One area lacking is coverage for illness and holidays. It's hard to get someone to properly cover holidays/vacations. It seems frivolous to talk about but after working as a coordinator for several years it really is a huge quality of life issue and impacts the attractiveness of the job. I need to plan for a vacation at least a month in advance, engage during that time with my replacement as the job requires that someone cover it and try hard to either finish any open requests or get them to a point where they are finalized. If a request comes in during the middle of your vacation and the person filling in for you does not do their job properly then it is likely no work has been completed on the request. Unless it's a small request, there is likely no way to catch up before the deadline. There is also no way to obtain an extension. I barely even took a vacation for many years because it wasn't worth the stress.

Yes.

I am not a full time coordinator. This makes it difficult, especially when we receive a large volume of requests, or large or complex requests. Ideally, there would be a full time coordinator for this position, or another person who shared in the duties.

Were it not for the single vexatious requester, I would respond that, yes, I do. Ideally, I would have a third access and privacy analyst because unfortunately ATIPPA requests consume most of our time and privacy obligations and education and training accordingly receive less attention, resulting in an ever-increasing privacy risk profile.

Yes.

Resources are not an issue within our public body.

Processing ATIPPA requests in our office is the responsibility of the [redacted]. While we have a solicitor on staff, the main responsibility lies with the Coordinator. When dealing with a complex request that involves a significant amount of staff, it becomes difficult managing the information and processing applications. Many municipalities do not have adequate staffing resources and financial resources to deal with processing requests. From a provincial government perspective consideration should be given to address this matter, either by providing funding assistance/grants to help ensure municipalities have the resources in place to process ATIPPA. Grants can be in the form of Information management systems, staffing resources as well as training opportunities. One of our biggest challenges in responding to an ATIPPA request is reviewing emails. Emails can be complicated especially when it involves several individuals. Each email has to be analyzed to determine whether an email has unique content or if the chain is wholly contained in a different email. It can also be problematic in reviewing the documents for redactions. Many times when responding to an application there is an abundance of duplication due to repetition involved in email records. It would be great to have a system to deal with this issue.

Narrowing the scope of a request can often be challenging when processing a request, specifically when the applicant is unwilling to assist. It is really difficult when applicants request all emails, all

records from all staff. [Redacted], this is a very broad request and can be problematic when the applicant is unwilling to clearly specify the information they are seeking.

Yes but access to records can be an issue.

No. I think it would be beneficial to receive training on software that we are expected to use to complete requests. The ATIPP training did not include it.

Yes, as a small corporation which receives a limited number of ATIPP requests, I have the resources needed to complete the ATIPP requirements.

This role was shared between two people and the other person left the job. Another person has been hired and the coordinators role will be shared again. An administrative coordinator has been hired to assist as well. This is not a job I applied for nor is it one I thought I would be doing long term. As a shared role I am content to stay in this position, as it would provide me the time to continue to be involved in policy/legislative work. ATIPP is not a job I want, especially on a full time basis.

Yes, I have the resources necessary to do my job.

An ATIPP coordinator that was at least dedicated to the role of 1/2 time would make an incredible difference. I am dedicated to about 1/5 to ATIPP.

There are education and guidance requirements that go along with fulfilling requests.

In my role I would benefit from my hands on to review and train the various levels of my organization.

I feel I have the resources necessary.

Human Resources is probably the only "resource" which I would like more of. A dedicated backup coordinator who can carry some of the burden would be extremely helpful. Currently, the backup is there to cover off things like holidays or sickness but is not particularly useful when they have a full-time alternative position in the organization. A backup coordinator often cannot pick up a file at the midpoint. With ATI requests you need to be involved at all stages of the processing to ensure proper review. There is a requirement for public bodies to have coordinators but not backup coordinators. Since some public bodies have few requests time may not be a factor for them, but for busy public bodies with over 100, 200 or even 300 requests a year time is the one thing that there is not enough of. Having a dedicated backup/secondary coordinator in those public bodies would alleviate some of the stress of the job.

Yes.

If would be helpful if there was a part time resource to assist with the ATIPP process. However, that is not an option during these fiscally challenged times. Currently the ATIPP Coordinator is the [redacted] for the department and the backup is the [redacted]. It would be beneficial if an IM Analyst or IM resource would be available to do some of this time consuming work and the [redacted] have close oversight.

I do feel like I mostly have the resources that I need for my role as ATIPP coordinator.

Not sure what resources are being referred to. Some information may be hard to locate as we have a big turnover of staff.

Because of the time aspect I don't feel we have adequate resources, some part of our administration suffers because of it.

Yes - Our entity is well resourced; but this is not the case for many departments.

The system doesn't have significant resources related to workload increases for employees other than coordinators who complete a portion of the record processing functions such as reasonable searches, data analysis, etc.

Yes I do.

- The ATIPP Office should not be JPS ATIPP Coordinators. The ATIPP Office should be a full time committed resource for coordinators and Deputy Ministers. Considering the level of work they currently do, the ATIPP Office does wonderful work. However, being JPS ATIPP Coordinators is a full time job on top of coordinators with questions and issues.

Training, meetings, resource material, addressing process issues and questions should be the primary role of the office. Assisting departments with creating efficient ATIPP processes and transitions for new Deputies and coordinators. I'm sure the ATIPP Office has ideas to streamline ATIPP and offer services to coordinators. For example, Departments should be contacting them when a new coordinator begins to know what should be set up resources wise:

-laptop with at home access

-multi mailbox

-FMT

-Rapid Redact

-TRIM

-Bite Recover

-Adobe

The Office is a fantastic resource but maybe it shouldn't be bogged down with JPS ATIPP as well.

- Better relationship with all coordinators. There's a wealth of knowledge but we're all so separated.

Depending on the time frame the resources are readily available - if it was something that was decided on years ago the paper trail is not always readily available and that can be frustrating.

To be honest, I don't know. I'm fairly new into the position and have not had a lot of time to into the procedures and see if I actually have everything I need.

I think I do.

I do not. I need support in my role and there are no resources available. In my opinion, to effectively carry out the functions of my role there could be 1-2 other persons doing this work along with me.

For the most part, yes.

No. Not enough dedicated staff. Too much administrative processes. Could be easily handled by clerical staff but due to limiting the number of staff to know who the applicant is, this is not possible.

- Yes/no. You learn about computer programs you should have from other coordinators and then there's a struggle to get them due to cost but they make the process 100% more efficient and less stressful. But unless you talk to other coordinators, you only know the bare basic requirements of rapid redact, access to MMS and Adobe Pro. There is zero department support. ATIPP is a burden and is often pushed aside so you have to push back.

- Autonomy to make extension decisions. The OIPC makes it difficult to get extensions when they're required. Either you don't get the time you've requested or you know if you request another extension, you won't get it because you've had two already. Things happen, delays occur outside of a coordinator's control. There should be some reasonableness allowed to coordinators for extensions. This is also true for having a large volume of requests.

- Lack of access to the DM

My job title is not ATIPP coordinator but it occupies most of my time.

Yes, I believe so

Maybe even a change in Salary leveling for the back- up, so as to encourage this. This refers to the before question as well.

Yes.

I have most resources needed except when an applicant want electronic responses. I can send a few items but not many electronically. We don't have the equipment to handle larger requests.

Not at this time, the amount of administrative work associated with processing a request is very time consuming, should that work not be required,(acknowledgement letters, 10-day advisory, request's to OIPC, consults both internal/external on multiple sections specifically (39, 27, 30 and 34)) I would have the necessary resources even with a high volume.

**3. HAVE YOU FORMALLY BEEN DELEGATED ANY TASK UNDER SS. 110(2) OF THE ACT?
IF SO, WHICH TASK(S)?**

No

No

Yes. All tasks stated under ss.110(1).

No

No

n/a

Yes:

- Duty to assist; Duty to prepare and issue decision letters; Duty to give 3rd party notice and 3rd party notice of decision.

- Authority to decide how access will be given; Authority to extend time limits; Authority to transfer a request; Authority to assess and collect fees; Authority to waive fees; Authority to require Commissioner to examine original record on site.

- Authority to withhold information under all exceptions to disclosure except Governing Body Confidences, 3rd party business information, information harmful to economic/financial interests of public body.

In practice, I have responsibility for all decisions under the Act, including submissions to the OIPC, and consult where appropriate.

Yes - to process access to information requests on behalf of the head of the public. There was nothing more specific than that. I think the DM of my public body trusted that I would perform my duties and do whatever was necessary to process requests.

No

Yes

Yes, all of them.

No, however all tasks listed under ss.110(1) are under my responsibility as ATIPP coordinator.

Yes, we have received one request in the past year.

n/a

Not "formally" that I am aware of, but I feel like I am the entire ATIPP Team sometimes so it is possible that I have been doing the duties of the "head" for some time and don't even realize it. All the duties outlined in 110(1) apply to me. Ultimately, I guess, the head of the public body (DM in my case) always signs off on the final response so therefore the answer is technically no. But if you look at the references to what the "head" is responsible for in the Act, such as in S.9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 (25 and 26 are not applicable because our public body has decided not to issue cost estimates or charge fees), all the exemption sections including 27 to 41, etc these are all technically performed by me as Coordinator so while they are "signed off" on by the "head" of the public body for all intents and purposes they are delegated to me as Coordinator.

No.

No.

Yes, Numerous ATIPP requests.

Yes, all.

I have been delegated decision making authority for the processing of some ATIPP requests. We receive many requests and many of which are considered "routine". The decision on information for these can be made by myself. It is however my practice to consult within the department when usual or unique requests exist or a request comes in for information that may be of a higher sensitivity to the public body, government, the applicant, another person, or the public.

No, newly appointed.

No.

Yes, Head of Public Body.

No.

No. I've only been selected as the Coordinator.

Not formally, no. However, that is not the case in practice. I frequently have decision-making power and function as the Head quite often.

I am the only person to complete the whole process. The head only reviews the final copy before release to the public.

Yes, all of the listed tasks.

No.

No.

2) The head of a public body may delegate to a person on the staff of the public body a duty or power of the head under this Act.

No I have not.

No.

4. DO YOU HAVE READY ACCESS TO ASSISTANCE WHEN YOU HAVE QUESTIONS ABOUT THE ADMINISTRATION OF THE ACT? WHERE DO YOU GO FOR ANY NEEDED ASSISTANCE?

Yes. There are multiple resources available - policy manuals, guidance documents, etc.

Yes, but it depends on having a supportive executive that will communicate to staff the importance of ATIPP and working with the coordinator. However, if the executive is not supportive or wary of ATIPP it is more difficult.

Mostly. When I need assistance I access the Access to Information Policy and Procedures Manual, review OIPC and court decisions, if required I contact my solicitor, other ATIPP Coordinator's and I also utilize the ATIPP office.

ATIPP Office.

Our [redacted] has a solicitor on staff as well as an IT Division. Both provide guidance when processing ATIPPA requests. We also consult with staff in the ATIPPA office and the OIPC office when we have questions in relation to the interpretation of an Act.

Yes. Depending on the nature of the question, I would consult the ATIPP office or the OIPC. Both offices have been very helpful.

Yes. Office of General Counsel. External Counsel.

Yes, there are staff available at the ATIPP office to answer questions, review materials and provide advice.

I will avail of the help from the Department of Justice and Public Safety, ATIPP Office, as well as the Office of the Information and Privacy Commissioner. At times I may discuss with our Legal Counsel.

Yes. The ATIPP office provides assistance when necessary. Other departments including Cabinet Secretariat, Justice and Public Safety, Intergovernmental Affairs Secretariat are helpful to discuss relevant sections when necessary.

Yes, coworkers and the ATIPP office.

I reach out to the ATIPP office, other coordinators and staff that are familiar with the records or have knowledge with past ATIPP requests.

The Act can be difficult to interpret and apply, especially as it related to cabinet records and third party information.

Yes, the ATIPP office is always available to answer any questions related to the administration of the Act in a timely manner,. I will also reach out to counterparts at Government departments if needed.

Yes.

ATIPP Office and/or other coordinators.

Yes, when I need assistance, I contact the ATIPP department and they are more than willing to help me with any questions I may have.

Yes - both the Department of Justice division and the OIPC have been helpful when questions arise.

Yes Senior ATIPP Coordinator

1) ATIPP Office

2) OIPC Office

3) Fellow ATIPP Coordinators

Yes, the ATIPPA Office

When I have questions in regards to the Act, I often consult with the ATIPP office. They are always helpful.

I am fortunate enough to have three previous ATIPP coordinators still within this public body. Decision making and consults sometimes occur at that level (all three of which currently are management within this public body). Occasionally I reach out to other ATIPP coordinators as well.

The OIPC has been fantastic to deal with when it comes answering any questions or uncertainties and I have quickly built good working relationships with some of the staff there. The ATIPP office has been adequate in doing the same.

Yes, though ATIPP Office and OIPC. Legal consulted at times, though cost barriers exist.

Yes. Haven't required any assistance yet, but i would email ATIPP if needed.

Yes - our internal legal team is knowledgeable.

I will phone the ATIPP office.

Yes, the assistance provided by the ATIPP Office is first rate.

The Privacy Commission Office is very helpful and provides great advice.

JPS

I always seem to call the ATIPP Office to assist with any questions or concerns i have.

The ATIPP Office typically. Or the OIPC. Both are excellent resources.

I have a policy & procedures manual, and any other questions I would have, I would just call the ATIPP office.

For any issue I can't resolve myself, I would consult with the ATIPP Office of Government.

ATIPP Office staff and fellow coordinators I know have been doing ATIPP longer than I. Depending on the request, the subject matter experts may or may not make themselves available to discuss issues or concerns. This includes the DM as well. The lack of support as per #1 makes asking questions difficult when trying to determine sections to apply.

Yes, the ATIPP office.

I go to my ATIPP Coordinator.

ATIPP office at JSP is occasionally helpful. Only contact OIPC when very concerned about an ATIPP issue.

I would not say ready assistance, for example no solicitor is designated to respond to specific inquiries relating to interpretation or Section 30, Cabinet Confidence inquiries are difficult and very time consuming not 'ready access'. The most effective course for me would be the OIPC.

I usually contact the ATIPP Office. They are always very helpful to assist.

I contact [redacted] at ATIPP office.

5. DOES YOUR IM SYSTEM PROVIDE ADEQUATE SUPPORT FOR YOUR ATIPP RESPONSIBILITIES? IF NOT, WHAT IS NEEDED?

Yes

Yes.

Yes but emails are difficult to handle as there are usually so many of them.

Yes.

We have an IT division whose main responsibility is managing computer hardware. They are not really familiar with IM software. If we could avail of better IM software to help us manage the information I believe this would be extremely helpful in processing applications, particularly email threads. We do not have the expertise in-house to know which systems we should be availing of. It depends on the division the request falls under and whether they are stored in the electronic data system, or paper files are the responsibility of the IM division. I have access to HPRM so I am able to search for any documents within that database. If the files are with the IM division the staff there are amazing and extremely helpful. However, some divisions have difficulty locating and searching for records due to IM issues. This can cause problems that are out of my control. I think this is an IM issue rather than ATIPP issue. Our IM division is awesome, and continue to work with other divisions to try and support them and encourage them to use HPRM. I am not sure what the solution would be (other than more resources which is not likely to happen right now).

We have a person dedicated to Information Management, so that is a significant support. That said, we have multiple systems and databases and platforms (including online, cloud-based platforms). For purposes of ATIPP requests, the support in place is adequate.

My IM system does provide adequate support.

Our IM system has been very dependable to date.

No, it needs to move to more digital records and a better use of the HPRM/TRIM data management system we currently use within Government.

I conduct my own searches and determine responsiveness. The IM division will only provide me with paper records that are located in the registry and provide support on TRIM when required. The IM division has very little to do with processing ATIPP requests.

Due to the limited size and number of ATIPP requests that we receive, our public body does not have a formal IM software. However, appropriate processes for ATIPP documentation have been identified and is stored so that it is not accessible to all staff.

IM provides adequate support in our Dept. OCIO could provide additional support by allowing Coordinators to have continual access to employee emails instead of having to make MMS requests each time you get a new request for email records. Furthermore, the merging of some of the functions of the ATIPP TRIM and the ATIPP Time Tracker could alleviate some of the administrative time burden.

The IM division is responsible for privacy and the IM staff have been very helpful with a number of IT solutions, including a program to sort emails, delete duplicates and place them in order.

Yes.

Getting more people engaged in use of the IM system...too frequently people decide something is too difficult to use and choose to do something else.

Yes

? Information Management IM ! Yes it does.

Yes.

No.

The IM system that I have largely works for my ATIPP responsibilities. If I don't have access to particular sections/information I do have access to employees who have access.

Our information system still consists of mostly hard copies, if the contents of our hard copies were digitized it may make takes less time consuming.

Not sure, what this system is. Can you provide information on this system.

Many public servants still do not understand the connection between IM and ATIPP; poor IM makes successful management of ATIPP that much more difficult.

Yes it does.

Not sure.

Yes.

Yes, I have not yet received a request that we were challenged in responding to from an IM perspective.

No it is a constant struggle - programs used to process requests, updates, accessibility to TRIM and shared drives, the use of TRIM. There are inconsistencies among what coordinators have and don't have.

We are new to the IM systems here. Our system has only been in use for the past two years and not all departments are using it.

Yes.

They do, but I would prefer to be able to spend more time shadowing my ATIPP Boss.

Stronger IM is required across the board. Should there be executive support and resources managing the requests would be a tangible task. Improper IM within Departments have allowed a build-up of paper records, drafts and transitory records throughout. As we cannot charge for searching just locating this task in some instances can take many months. The Records Retention and Disposal Schedule (RRDS) Process in GNL is also archaic and of little importance. Departments have to wait years to complete a RRDS and go through multiple approval channels as well as the Government Records Committee (GRC) prior to proper authority to dispose of records. This has allowed many years of build-up creating requests which in some cases exceed thousands of pages.

Yes

N/A

6. DO YOU FEEL YOU HAVE RECEIVED THE TRAINING NECESSARY FOR THE ROLE OF COORDINATOR?

Yes. ATIPP training is offered quite regularly via the ATIPP office as well as refresher courses and information sessions. Very informative.

I was told I would be responsible for ATIPP in my department as a temporary measure. The training provides a basic introduction to the Act and policies. It does not provide adequate practical training or guidance. I was completely overwhelmed and for the first three months I was in the role, the department received double the number of monthly requests. I did not have an adequate understanding of the volume or work involved in the different requests.

Numbers alone are not the best indicator of the amount of work. The volume of records in a request and the complexity of the records determine the amount of work. Extensions help but they only "kick the can down the road", the work still has to be completed. A mentorship/training program is essential for new ATIPP coordinators. I was lucky to have an executive team that understood ATIPP and the volume of work involved and they were there to assist me in every way. Had the executive not been as supportive I would have left the job. I did not have enough experience to understand when to push back on applicants or when to apply for extensions. As it was I would spend my weekends preparing the routine requests so they could go out on time and limit the number of requests that were late.

The support from other coordinators and regular meetings to discuss issues is important, especially for new coordinators.

Executive have always been very supportive when they have been short turnaround times for executive approval. I have been able to speak very frankly with executive about the challenges and they have supportive with addressing the issues, given the economic realities.

Yes. But I think training could be much better. More resources need to be put into the ATIPP Office.

Yes

I have received training [redacted]. This program was very extensive and covered 5 courses. Highly recommend this course. However, cost is a factor! There is also the International Association of Privacy Professionals Certificate Program. This is a two day course that is somewhat helpful, but is not robust enough to address any issues one will experience with the administration of the Act. One will receive a certificate, but I do not believe it serves much of a purpose, other than to say the ATIPP Coordinator is certified.

Yes, the ATIPP Office provides a lot training and community of practice meetings.

Yes

In the past, I have participated in training offered by the ATIPPA office and I keep myself abreast of the guidance documents and decisions through the OIPC. More indepth training and analysis of decisions would be helpful.

Yes

Yes

No. The training for ATIPP coordinators is very high level. In my opinion it speaks of the Act but it does not give enough practice on applying exceptions or prepare you for completing an ATIPP request. It's worthy to note that once you complete training, you ARE NOT ready to work on access requests.

A coordinator really should have on the job training by shadowing another coordinator and working through the process.

We're expected to use a software called Rapid or Objective Redact and they provide zero training for that software. I have been in this role for over a year and I am still learning tips and tricks by accident when I'm processing requests.

No. The online training is good but not enough. It can be very challenging if you do not have support, for example, a coworker who knows the Act or a mentor.

Yes and the ATIPP office is available to provide advice and support as needed. The initial training as well as the Community of Practice sessions offered by the ATIPP office are very helpful.

Yes.

Yes, I have received adequate training for my role of coordinator, but I still get nervous when I receive a request. I want to ensure that I do everything right.

I have attended OIPC/ATIPP office training...I'd love to see a FAQs available for coordinators.

At the onset but the upkeep and review of lesser used sections and areas of concern/interest within the role, as well as the regular changes and precedents established would be of further assistance.

Yes.

YES - to some extent, depending on the nature of the Request.

No.

The training I received was very informal and came mainly from mirroring the previous ATIPP coordinator. This is in part due to the COVID-19 pandemic and the inability to take part in group meetings as effectively. The ATIPP office has openly offered one on one sessions to ATIPP coordinators who feel they would benefit from the training and do offer occasional online seminars.

I personally am very comfortable with the inhouse training and consult process of this public body.

Received some training but willing to do more. Registered for a course for November.

I have received training via the ATIPP office. I feel the majority of training comes from working through requests and being able to reach out to senior ATIPP coordinators for assistance. For me, I achieve this through co-workers who were in the role previously and also with the ATIPP office.

Additional training is always welcome, the training received is good but I think it needs to be more intensive, such as a classroom setting for 2-3 days.

Yes.

No. More training is needed in this field.

I don't feel that there is enough understanding of how municipalities have to handle these requests. We are more involved in the everyday life and make decisions that affect the regular person. Training is more geared toward government departments and that's not accurate for us.

Yes

As a coordinator yes, but need someone more suited to IM work ideally.

I had an online webinar several months ago, but that doesn't take the place of face to face training with a group of people.

Yes

Yes.

Yes and no. I believe if the ATIPP Office was focused on ATIPP and not a department's requests, the training would be more in-depth and consistent throughout the year. The Office has wonderful staff who do their best but definite room for improvement and growth and cross training with other departments.

Yes, but when I don't deal with requests a lot training or no training helps in my opinion

Not yet. I need to be able to leave more of my IM duties and spend more time as a back - up and shadow, so as to stand on my own.

Yes but primarily due to my education.

Absolutely not. I believe new coordinators should be trained for a period of time and then work jointly with an experienced coordinators on a few requests to get comfortable with the Act, the process and the software.

Yes.

Yes but always appreciate ongoing training because I learn something different every time.

7. (A) IN YOUR EXPERIENCE, ARE APPLICANTS GENERALLY SATISFIED/DISSATISFIED WITH THE PROCESSING OF THEIR REQUESTS?

My experience has been that applicants are generally satisfied with the processing of requests.

Satisfied.

They seems satisfied. Usually if they are unsatisfied, they have other issues with the public body. What appears to be excessive redactions or being late can also lead to an unhappy applicant.

Satisfied

For the most part, applicants appear to be satisfied (or at least do not say otherwise). The problem sometimes can be the one or two applicants who are disgruntled with the department in general, and then take up a significant amount of your time by submitting multiple new requests or complaints, or inundate you with emails.

Overall, not too many applicants have appealed or submitted a complaint in relation to the processing of their requests. For those that have it is a fairly arduous process.

Yes

Satisfied

Most applicants submit requests because they are already dissatisfied with the subject of their request. Dealing with already frustrated people can be very straining. I find it important to develop a professional relationship with the applicant to make them understand the ATIPP process and ensure that I have nothing to do with the issue at hand. However, this can be time consuming and sometimes it does not work.

We have received the occasional appeal, but for the most part applicants seem to be satisfied. Except for the vexatious requester, who is never satisfied, always complains to the OIPC and then appeals/or applies to Court for judicial review, even when he is given FULL access to the information requested.

Yes.

I have been in this role a short amount of time and I have experienced extreme satisfaction/appreciation and extreme dissatisfaction with responses to requests. I make it an effort to show empathy and listen to all applicants as some of them sometimes are in difficult situations and make an effort to explain my role as ATIPP coordinator and my limitations, especially when a request is refused.

The only request that I have received, the applicant was somewhat dissatisfied because he wanted more personal information [redacted] that I wasn't permitted to release.

Based on my experience, applicants have been satisfied with the processing of their requests.

Yes, satisfied in my experience. Our department has not received a complaint from the OIPC in over three years so I guess that means that applicants are satisfied with how the requests are processed.

I wouldn't say they are satisfied...disgruntled but accepting.

I do my best to provide them with the information that they request, I may make suggestions on how to revise their request but sometimes there is no way to satisfy.

Yes, for the most part and they have been understanding with respect to delays as well. However, I have had applicants that have not been pleased when they are advised we do not release the name of the person who made a complaint regarding them.

Yes

Generally satisfied.

Most of the time. It would be determined on the nature of the Request and for what reason information was being collected. [Redacted] we are open and transparent. I have moved ATTIPA request from formal application to general request where we have responded, with the understanding that if the provided information was not as requested, they could again go through the ATTIPA process.

I believe for the most part they are satisfied.

The more contentious the issue, the greater the discontent, it appears.

I have not received anything specific to the processing process itself to date from applicants. It is however VERY important to point out that some public bodies (CSSD, HCS, RNC, JPS, etc.) likely hold more sensitive and sometimes more vital information than that of other public bodies which can significantly affect a person's satisfaction with a response from public body to public body.

Haven't done any processing.

In my experience they are generally satisfied.

My experience is mostly satisfied, that is until there is a big project that residents feel they have a right to know every detail of and cannot accept the fact that we are obligated to withhold information.

Processing; yes - outcomes; not always.

I haven't had much experience in this field but when I did they seemed satisfied. I don't think people understand the process either.

Mostly satisfied.

Yes

I have not had any request to date.

Generally satisfied.

Nearly all are satisfied, a few were challenged to OIPC, only one resulted in direction from OIPC to Department.

Generally, yes.

Depends on the request. Many think ATIPP can be used for revenge or retribution and complain about it taking so long and redactions; some use it to bypass other avenues to get the information and the OIPC doesn't support the fact there are public avenues available even though it states in the Act in section 3(3). ATIPP is not being used for what it was intended.

Applicants believe ATIPP is the key to all government secrets. Often times, files sent secure transfer are never picked up so the work was for nothing.

Applicants get angry over redactions, extensions and do not read the files before making a complaint with the OIPC. Applicants make the process difficult by submitting wordy, lengthy requests with no specifics and expect coordinators to know what is being requested. When asked to clarify, they become defensive and abusive.

With applicants I have dealt with, satisfied.

Generally satisfied.

In instances applicants do not get what they seek they are dissatisfied, I feel this is due to a lack of knowledge. The public should be more aware of the exceptions and purpose of the Act. Should the applicant get the records they seek they are generally satisfied.

To my knowledge, I feel that the applicants have been satisfied with the processing of their requests to date.

Mostly satisfied.

7. (B) WOULD YOU RECOMMEND ANY CHANGES IN (I) TIMELINES; (II) FEE/COST STRUCTURE?

Fee/cost structure is not something I can comments on as we have never had an occasion to charge them.

The timelines do not necessarily need to be extended, however, there needs to be more flexibility in extending the timelines depending on the size of the request and the number of pages to review. In addition, in extenuating circumstances (e.g. staffing shortage) there has to be a balance in processing a request and meeting other operational requirements.

I would suggest, there should be provisions in the ACT that the public body should also be able to ask the applicant for a time extension and if the applicant is agreeable, the extension should be permitted without having to go to OIPC

In regards to fees/cost structure, there should be some consideration for the time required to review and vet documents. Documents have to be reviewed to determine if there are exemptions to disclosure

Yes - I think that public bodies should be able to extend the timeline for responding to requests for specific amount time under specific circumstances without going to the OIPC. After that time, if they still need additional time, then they should be required to go to the OIPC. I also think the timelines for submitting requests to disregard should be extended beyond 5 days, and generally, for the deadlines to be more flexible in terms of submitting requests to the OIPC (both extensions and disregards). I don't feel there should be an application fee, however, I feel that public bodies should be able to charge for the time it takes to process a request rather than for locating records (after a free amount of time). This would not affect most applicants, just those who are requesting large quantities of records and who are unwilling to work with the public body to either narrow the scope of the request or break it down into multiple requests submitted one at a time.

The overall 20 business timeline is ok. The deadlines (5 days and 15 day) are constraining when the overall ATIPP process really benefits flexibility.

I think that coordinators should be able to just make their own one-time extension for 10 days. Longer ones should require an application to the OIPC (as an aside - if a Public Body applied one extension to a request, that should not prejudice them with the OIPC if they have to seek more time. I'm afraid if that is not made clear somewhere the OPIC may seek to not grant more time even if it is justified). For oversight, maybe it would be ok if the Public Body just advised the OPIC they made so many extensions in a given month. If the OIPC recognizes a worrying pattern then they can follow up with the public body to see if everything is ok.

Public should also have longer than 10 days to respond to informal and formal complaints from the OIPC. Maybe 15 days?

Also holidays really, really need to be fixed in the Act to adopt all of government's holidays in the government calendar as not business days.

One other item that may be work considering is the concept of pausing time times in the event of an emergency. This happened with Covid and the snowstorm in January. I know the OIPC is able to vary a timeline and procedure but maybe emergency planning should be contemplated or be more concrete in the Act? Maybe a provision where the Clerk of the Executive Council can consult with the Information and Privacy Commissioner to accommodate ATIPP in emergencies.

No

Yes. As previously noted, I do believe we need to start charging a small fee to file an ATIPP request. This is not to deny access, but to prevent one applicant filing 30-40 requests in one day because they can. Additionally, I think we need clear and concise direction on what we can charge for during the processing of a request. Given today's technology, a keyword search can be completed relatively quickly. However, depending on the volume of records resulting from that search, it may take the ATIPP Coordinator 30-40 hours to review to determine what is responsive.

In relation to timelines, I find for the most part they are acceptable. However, I would like to see a small change. When applicants' requests require clarification, I think the clock should stop for processing until the applicant responds. Given our need to request a disregard is dependent upon having a reasonable request, it can prove difficult to meet this requirement.

(i) When information is requested for records that includes [redacted] the timelines essentially changes from 20 days to 15 days...this is sometimes challenging for us and often places extra pressure on [redacted]. For the information request we receive, on most occasions, releasing information is seldom time sensitive therefore it may be more reasonable to change the timelines from 20 to 25 days for those responses that include [redacted].

(ii) No concern with fee/cost structure.

As mentioned, I find the timelines are tight and meeting them can be especially challenging given the amount of request received and how large these requests can be on times.

The department provides an acknowledgement and an advisory notice for each request. The advisory in my opinion is of no value and is time consuming. If the request is being refused, requires an extension, is associated with a cost or contains third party business interests then these can be addressed in the final response or a notification if required. Often times these things mentioned are not even known by day 10 and the letter is just sent to satisfy the legislation requirement which is time consuming and frivolous.

I also find the deadline to transfer requests can be difficult to meet since it requires coordination on behalf of the department to determine that it's not a record we have and then coordination with another department to determine if they do indeed have the record. This can be difficult when you have a number active requests and especially so if any are large. Transferring a request involves communication with the applicant, another coordinator and a formal letter. If the records requested are with multiple departments then it requires multiple letters and emails. And at the end of the day if the department does not make the transfer in time we still have to reply with a non-responsive letter anyway. The way the Act is written it's often easier to ask the applicant to withdraw the request or reply with a non-responsive. Given this, I don't think there should be any deadline for transferring and possibly have the onus on the applicant to submit the request to the department that has the records. The duty to assist might be just the coordinator replying with an email that this information is with another department. The form is located online for the applicant to access and the contact information of the other coordinators.

Disregarding a request should be at least 10 days. The recommendation is that we work with the applicant to narrow or clarify if a request seems to be large. However, some applicant don't respond ever or are not available within that time frame. Also, to provide information to the OIPC that the request is large requires me to know how many records I have to process. I have to rely on the department and subject matter experts to provide me records, search terms, advice on the material also within these 5 days. If I, the subject matter experts are off work then this effects my ability to

know if I need a disregard because the request is large. Also the business process to completing a multi-mailbox request with the OCIO can take up to three days. And prior to submitting it I also need to know who in the department has this information to include on the request for records form that the OCIO requires.

I don't think there should be a deadline on extension requests. If at any time the coordinator feels more time is needed they should have the ability to seek first extension requests with the deputy minister of the department. The OIPC simply does not understand the sensitivity of the material, how large the request is, the length of time it will take to review, the amount of other requests (the sensitivity, the amount of records of those requests) and the time the ATIPP coordinator has to work on this. Again, I reiterate this effects my work/life balance. I feel very offended when I request a 10 day extension and the OIPC provides me with 7 days! How are they to know what I can and can't take on. I need the ability to protect my work.

There has been much talk about a fee/cost structure, And yes, it will no doubt weed out some frivolous or vexatious requests.

Yes, 30 days to process a request and self-approving 20 day time extension at the discretion of the public body. I also think there should be a fee for businesses who use ATIPP to make a profit off the work of the public body and non-residents of NL.

Yes.

(i) Timelines:

S.16. The 20 business day timeline is adequate.

S.21. I recommend that public bodies be able to make a decision to disregard a request, without having to apply to the Commissioner for approval. Frankly, the work involved in a disregard application is “busywork.” The 5 business day timeline to make an application to the Commissioner is frankly unworkable. By the time a request is determined, through consultation and receipt/review of the records, to possibly meet one or more of the grounds in s.21, the deadline for submitting an application is expired.

(ii) Fee/cost structure:

Application fee: I feel it should be restored. If nothing else, they lend an importance to the decision to file an ATIPP request and add a level of responsibility and, yes, accountability to the requester. Processing fees: With the right under ATIPP to request information from databases (many of which are relational databases), many requests now take hours and hours of expert analysts’ time to develop custom queries to extract and assemble the information requested and then to verify and reconcile the information to ensure completeness and accuracy. While section 20 does say a public body does not have to respond if doing so would interfere unreasonably with operations, the level of complexity often is not known until the work is well underway, by which time no one wants to tell the requester, sorry, we can’t provide you with this. Also, my experience is public body employees want to respond to ATIPP requests. Accordingly, I believe certain types of time expended on requests ought to be chargeable.

Timelines need to be more reasonable. We need the ability to approve a first extension. The requirement for advisory notices should be deleted. Fees should be charged. Given our fiscal realities we are trying to implement a champagne legislation on a home brew budget. It is not reasonable. I'm not sure government has an accurate measure of the cost of ATIPP. Given the users (companies, political and media groups) of ATIPP it is a cost that should be shared through the use of fees. There are companies that search for specific government information (across Canada) and repack-age it to sell - there should be a cost.

I believe, though there would be extreme pushback publicly, that the timelines should be extended. As I have stated above, 20 business days is an extremely tight deadline, when you factor in multiple requests, having opportunities to meet with subject experts and the head of the public body, other duties such as the privacy portion of the Act, etc. So many things contribute to the stress of the ATIPP Coordinator. The fee/cost structure has become moot in our public body. Most records can be located within a matter of hours. Most applicants request their information by email. I cannot recall the last time anyone requested paper copies.

While some requests are very specific and focused, there are others that are quite broad and require significant search time. For those requests where the requestor is unable or unwilling to narrow the scope, I believe a longer timeline should be more easily available to the department/agency.

No.

Fees/cost structure - NO.

Timelines, I would propose a coordinator ability to grant short time extensions subject to review by the OIPC if a complaint was made about this by the applicant. I would further propose either eliminating or extending the time to seek disregard or to transfer a request - 5 days is wholly insufficient. I would also propose eliminating or extending the time to seek a time extension if the proposal for the coordinator to grant their own is not approved. Day 15 is arbitrary and not useful at times.

No.

I do believe a more serious look needs to be taken into the fee/cost structure. In allowing the public access. I believe the current structure does not account for the time on task and the research and review necessary for not only the coordinator, but others within the organization in completing these requests. I believe for more involved requests, we should be charging an appropriate fee for the work involved.

No.

Recommend to set a fee for copying information, scanning this information to provide it in a no cost to the proponent in a PFD.

Yes, timelines are problematic.

I would recommend an increase in timelines as small communities such as ours do not have the manpower to meet the timelines. I would highly recommend a cost structure as the applicants ask for everything via email now, but that does not negate the fact that we have to copy everything to redact and then scan. Also the applicant use to ask for multiple items on one request, they now break it down on separate requests. I also strongly believe that there should be a maximum number of requests one person can submit in any given year. We have seen the abuse.

Currently, timelines are reasonable for most requests. Our public body receives many similar requests that become "routine" so I am usually able to complete a request in 1-2 business days or less.

My biggest recommendation when it comes to timelines is the ability for an extension closer to the 20 business day mark if necessary and where unique and unusual circumstances exist. On a couple

of occasions instances have occurred where more information, records, or the specifics of a request change after day business day 15 and therefore an extension is not possible and an increased rush to review the information occurs.

We do not use the cost structure as most responses are completed quickly.

I would recommend the following change to timelines:

Put the clock on hold while writing requests for an extensions and disregards. This would alleviate undue pressure on the coordinator to write an effective and thorough rationale for the request.

Not at this time, no.

Not at this time.

No

All statutory holidays should be excluded from the time. Minimal fee should be required to stop frivolous requests. Timeframe should automatically be extended if number of pages in responsive records exceeds 100 pages. OIPC will always accommodate applicant but not always will accommodate the requesting department for extensions or disregards. OIPC does not understand that some departments have minimal staff working on ATIPPA requests and is only a small portion of their duties.

No.

Yes, I would recommend changes to the timelines. I find the disregard timeline frustrating considering it is 5 business days while the timeline to apply for an extension is 15 business days. Very often you require the same information to apply for both (information on the amount of records, consultations, etc.) and in my opinion it is unreasonable to do that within 5 business days. Both timelines should be the same - at least 15 business days.

No.

Timelines - first, the ATIPP holidays need to be in line with government holidays. We work the holidays not covered by the Act because of timelines.

- 20 days is not enough sometimes for requests. 30 days should be the minimum starting off. Do we make the deadlines? Most times but it's not without working long hours and pushing.

- Coordinators should be able to determine the first extension without the OIPC. The OIPC has proven over and over again it doesn't understand the complexity or workload coordinators are experiencing.

- Coordinators should have a limit of how many active requests at one time. Some departments are drowning in ATIPP requests. Burnout and stress are real and take away some of the best coordinators.

- Timelines should not begin until the applicant has clarified the request and that should be supported and communicated to the applicant. Time is often wasted trying to clarify wordy, lengthy requests.

- Time clock should stop for consults including the section 27. The 20/30 days should be outside of additional consultation and approvals. A simple ATIPP could become the most complex involving section 27 review which you may not realize until late in the process or multiple consults. A

coordinator has to be mindful of OIPC deadlines for submissions and their own timeline. Very stressful if the OIPC doesn't grant an extension or something is brought up at the last minute.

- For most coordinators this isn't our only job. Time management is a skill we all have and perfect but it should be a FT position concentrating on ATIPP and Privacy, not other duties and then ATIPP. Fee/cost - locating files takes time, but not as much as compiling and redacting files. The Act charges for locating the file. Most of the work stems from reviewing piles of documentation for responsiveness and then redacting them. Will a fee come out of this review? Probably not. It shouldn't have been taken out to begin with. A fee would narrow the frivolous and vexatious requests and requests from media to do their investigative work. This process takes away resources from other work being done by subject matter experts who have the information requested, they answer questions, a file could take hundreds of hours to review and redact and the public gets it for free, never understanding/knowing or appreciating what coordinators do.

I think timelines could be increased. Not drastically, but increased.

YES. 20 days is not long enough for a bigger request. 30 business days (not calendar days) would help.

There needs to be some fee structure for electronic document release. Everyone has caught on to the fact that if they request to have the documents delivered electronically than there is no cost associated with it. Set some kind of fee structure, other than having to track the number of hours worked (when you're not a full time ATIPP person you cannot dedicated all your time to this and must complete other duties), so that we can get compensated for some of our time.

As a [redacted] we have felt the financial impact of numerous ATIPP requests this year on our office supplies budget. Perhaps applicants could be charged admin. Fees especially when the submit multiple requests.

1. A \$ 10 application fee would prevent many nuisance ATIPP requests. Media organizations and Political offices have budgets that can cover such fees. I have a handful of regulars who only apply for large amounts of information because it is free to them but have cost the taxpayers thousands of dollars to fulfil the ATIPP request. NL only jurisdiction that does not charge for ATIPP request to my knowledge.

2. The ATIPP 20 day response clock should not begin until applicants have responded to clarification requests. After 3 days if the applicant has not responded to clarification request, the ATIPP request should be automatically disregarded.

Timelines for sure, when there is only one person in an office in a small town being a jack of all trades.

Timelines should align with Federal timelines and coordinators should be given 30 days to respond to a request. Holidays should be consistent with GNL holidays. Fees should be reintroduced, especially in the instances of Discovery work for solicitors. This is a common type of request and where it saves money for the solicitor it costs GNL a significant amount in time and processing.

Not at this time. Not sure if a cap of requests per resident could be developed per year.

8. DO YOU CONSIDER THE PUBLIC RIGHT TO INFORMATION AND THE PROTECTION OF PERSONAL INFORMATION TO BE AN IMPORTANT ASPECT OF OUR DEMOCRATIC SYSTEM OF GOVERNMENT? IS THIS VIEW SHARED BY YOUR SUPERIORS?

Yes and yes.

Yes, I feel passionate about this. I believe the public should have access to this information and I often feel that much of the information requested can be addressed through proactive disclosure. It would be worth talking about including proactive disclosure in the legislation and being able to apply these exceptions [redacted] online for example. I also feel my department, executive and staff are very supportive in my role and are free to discuss material and answer questions at any given time.

Yes. My opinion is many of the requests are not in the spirit or intent of the Act. It has become an easy way to skirt processes to obtain information that are already in place. Access to Information is not meant to replace other processes already in place and should be the last resort to obtain information, not the first. Many requests are simply asking questions and are vague and broad.

Yes I think so.

Yes and Yes.

As an ATIPPA Coordinator, I fully support that Access to Information and protection of personal privacy is a fundamental right under the democratic process. In regards to my superiors, I believe they share the view but are challenged by compliance with the Act.

Yes. And yes.

Yes. You may have to ask superiors how they feel.
Disclosure of public information is necessary.

I strongly believe in this point. The public need to know the facts of how government is working for them, more so than ever before, especially in these times with the influence of social media and disinformation. Knowing what government is doing through policies and actions will help influence how people wish for their society to move forward. Such information assists the public in helping them determine who they wish to vote for. I believe my superiors are very much on the side of the purpose of access to information and protection of privacy.

Yes, absolutely.

I do, and I believe that most people within my public body do as well. Access to information is essential to holding public bodies accountable and providing the public with the details required to be informed. Additionally, it is essential that the public is able to avail of programs and services with public bodies without worrying about their personal information being inappropriately used, accessed or disclosed. ATIPP can sometimes be looked at in a negative light, not because people within the public body disagree with the public's right to information, rather it is due to limited applicants who appear to be using it for other purposes. For example, in the public body I work

with, there is one applicant who has significant problems with the public body. [Redacted]. This becomes frustrating for employees, many of whom this is their only experience with ATIPP.

Yes, I think that it is important that there is reasonable access to information and protection of personal information.

100% I feel that way. I would say some of my executive would disagree with that though. I believe many managers, directors, ADMs, DMs and Ministers see ATI as a nuisance, rather than an important aspect of democracy. I have heard from many of the aforementioned groups how much ATI negatively impacts their ability to do their "real" job.

I do believe that protection of privacy is held in a higher regard than an individual's right of access to government records.

I do believe it is an important part of democracy...a well-informed citizen base is engaged and able to participate in decision making.

I think my superiors feel the same, I typically don't receive any pushback for releasing information. I wish we were more open about publishing documents, decision online so people didn't have to file requests for the information.

Yes, I do consider the public right to information and the protection of personal information to be an important aspect of our democratic system of government and this view is shared by my superiors.

Yes, it is important. In fact, more proactive disclosure of information would allow for the regular release of information, for example, a quarterly release of briefing materials (with appropriate redactions).

Yes and Yes.

Yes. I believe the right to know is an integral part of democracy. This view is shared by my superiors. However, this is a delicate balancing act to ensure information is also protected.

The balance between access and privacy will always teeter back and forth during new situations. Hence, the constant need of reviews of legislation and implementation of practices to address legislation will be necessary to keep an even balance.

I consider it important. Some superiors may not share the same view but instead a hindrance to doing business.

YES and YES

Yes.

I do consider this to be very important. Our public body deals with a large amount of sensitive and personal information so the protection of privacy is at the forefront of our public body.

Yes.

Effective leaders share this view or philosophy, but many long-standing executive seem to miss the concept of the act.

Yes I do. But it is a slippery slope.

I do believe that it's an important aspect of the democratic system and so do my superiors, until it is abused.

Yes.

Access to information and protection of privacy are essential to our liberal democracy. It holds elected officials accountable, allows citizens to cast an informed vote, and protects our right to privacy. Yes, I believe that view is shared by my superiors. If they ever need a reminder I'm sure to do so!

Yes.

I think it is very important and this view is shared by Council.

No. People will use ATIPP to try to force answers that they are not privy to. Personal information part is good, protects from the snooping public.

Yes.

As an individual, access to information is important to our democratic system as it holds those we elect accountable and transparency should be part of government business where appropriate. The Act also doesn't protect a lot of what government does.

Executive and staff see ATIPP as a burden. It pulls them away from their work, there are deadlines which have to be enforced (which ends up being a struggle due to conflicting responsibilities, timelines be damned). There is a culture of protect information, have multiple copies of information and don't release any of it. It adds stress and unnecessary burden to coordinators.

This job is educational and a good way to learn how government and departments work, especially those looking to move up in their career or educate staff on how to be more transparent and information friendly. Instead it is stressful, causes burn out and results in coordinators leaving.

They talk like it but on a couple of sensitive files it definitely was not the case in practice.

Yes, I believe so.

I consider both to be an important aspect but through ATIPP have questioned my views. I feel the public right should be defined more thoroughly, individuals all too often feel because GNL holds it they have a right to see it. I would expect this same view is shared by my superiors, we all feel it's important however, with the current process have questioned it.

Absolutely. I agree with this very much.

Absolutely. This is all very important. We all feel very strongly protecting personal information [redacted].

I consider public right to information important as does my supervisor.

9. IS THERE A CLEAR LINE OF DECISION-MAKING AUTHORITY IN YOUR DEPARTMENT/PUBLIC BODY/AGENCY REGARDING WHAT INFORMATION WILL/WILL NOT BE RELEASED?

Yes. I, as the coordinator, review the records and apply the exceptions I feel are required. I consult with subject matter experts and other public bodies if their records are included. Sometimes they will advise of concerns they may have. Once I have done this, the ADM that the request falls under will review and provide their feedback/sign-off. Generally I will make changes that are recommended unless I feel that the Act does not allow for the information to be released or withheld (depending on the suggestion) - I would discuss with both the subject matter experts and ADM to get a better understanding of their suggestions to determine if the Act would allow for it (sometimes I may not be aware of certain information when I initially review the records). Once I have done this, the DM will review. If for some reason, I haven't made the change suggested by the subject-matter expert or ADM I will make a note of this for the DM and then they will make the final decision as the head of the public body.

Yes.

Overall, there is a clear line of decision-making authority in regards to the release of information of formal ATIPPA requests. For challenging matters, I typically consult and depend on the expertise of the [redacted] solicitor.

For non-Atippa requests, there appears to be an increased awareness of the legislation and staff routinely seeks guidance on what information can be released.

Yes.

Yes. I think ATIPP works better the closer the coordinator is to the Head. If there are many layers in between it becomes harder (e.g. if a director has to review, then and ADM, and then the DM). This also compromises timelines to account for the people who need to review. Going directly to a Deputy may only need 3 days review, whereas including a director and ADM may need 7 days.

Usually resolved easily.

Yes, we have a delegation of authority instrument (although it is outdated and needs to be revised).

Yes

Yes. I never have any doubts when we disclose information to the applicant.

Yes, ATIPP coordinator-Director-ADM-DM.

Yes.

Yes. My executive are very open to discussion about the information and we often agree on seeking advice from the ATIPP office if needed.

Yes. ATIPP Coordinator proposes release/redaction, DM approves. No others involved in the approval process. Subject matter experts are consulted at the discretion of the Coordinator.

Yes there is.

The final decision is with the head of the public body, however, the expertise and recommendations of the ATIPP coordinator is taken into consideration and discussed in detail.

Yes.

After I make recommendations, Executive review the recommendations and provide clear direction.

Yes

The coordinators role is to educate the staff and to understand the records to determine appropriate redactions. Final say is with the Deputy Minister.

Yes.

YES, and at time with the assistance/direction from the ATTIPA Office.

Yes.

The set up with our public body, as mentioned above, is that I as ATIPP Coordinator have authority to make decisions for the public body on what information is released. I exercise this authority on "routine" type requests. However, consultation occurs with my Executive with most unique or sensitive requests. This consultation occurs with my direct report, our solicitor, and sometimes the official head of the public body.

Yes, however we do have a high turnover of Management Staff.

Yes to some extent, I do regularly get help with this from the ATIPP office.

Yes there is. Privacy is very important.

Usually

It may be complex and not enough time is available to train for every scenario. As with most adults, if they do not perform a task often, they need reference material to guide them. This material is absent from most entities.

Yes.

Yes, to be honest that decision-making authority lies with me. I consult with staff, gather all the necessary information, hear their concerns, consult case law, the ATIPP Office, the OIPC, (as needed) etc. to finalize a decision.

Yes there is, but with grey areas, I would always call the ATIPP office.

No.

Yes.

In my experience, my deputy ministers have provided open and clear direction to release information. Levels beneath them have been problematic.

Yes.

Yes.

Depends on the request. There should be more discussion and relationship with the DM as the head of the public body instead of being standoffish and not accessible. There are discussions with ADMs and subject matter experts to explain how and why sections are used and why information can't be withheld. At the end of the day, the ultimate decision comes from the DM, even if you know you're in the right.

For mandatory exceptions yes, for discretionary no, it's a case by case basis.

Yes

Yes, We are also guided by the Municipalities Act.

10. (A) ARE POLITICAL STAFF INVOLVED IN ACCESS REQUEST DECISIONS?

Never - 27

Rarely - 8

Often - 4

10. (B) ARE CONSIDERATIONS OTHER THAN THOSE SET OUT IN THE ACT USED IN ACCESS REQUEST DECISIONS? PLEASE EXPLAIN AS REQUIRED.

Never - 19

Rarely - 14

Often - 6

In terms of (a), the only involvement political staff would have is if the request may involve their records - they are notified so they can conduct a search. They are not part of the review/decision process. In terms of (b) other considerations may be used in a decision, but only in terms of what the Act allows. For example, extenuating circumstances may determine whether a discretionary exception is applied or not.

When consideration is given to releasing personal information and/or third party business information because the information doesn't meet the tests outline in the Act, there are times I will still provide the notification to the person and/or business to ensure they are aware and have the

opportunity to make representations. I do not believe a public body is in the position to make that determination.

Often - We will look at case law on matters and ATIPPA decisions from other jurisdictions in Canada.

Have had to refer to other legislation where the ATIPPA, 2015 would also be considered to ensure we remain compliant.

Certain Ministers request to read the records before they are released, others do not mind. The Act is the final word for access request decisions. Sometimes I consult relevant expertise as noted earlier for discussion.

It is important to foster and maintain healthy business relationships with third party companies. To do this often involves a delicate balance between ATIPPA, 2015 and the company's expectation of confidentiality. Staying true to the legislation is often a challenge but I have been fortunate to have the executive support required to push back against unreasonable demands by businesses.

[Redacted], other issues (such as [redacted] and multi departmental involvement) may also come into play at times within our processes.

Other considerations include corresponding legislation applicable to custodians such [redacted]. For custodians, there is overlap in [redacted] making clear delineation of legislative jurisdiction difficult as times. Public bodies, including the ATIPP Office/OIPC may not realize the nuance that exists where a dual role exists, that of custodian and public body.

Requests are at times may be political in nature and as a public servant, processing requests according to the spirit of the Act while maintaining allegiance to your employer is difficult, especially where knowledge related to ATIPPA, 2015 is limited outside the Coordinator role.

The Dept. with oversight of my organization has requested to be kept informed of ATIPP requests that may impact them politically, etc....I do not take responsibility for sharing that information and leaving that to my superiors to handle.

There are a couple of pieces of legislation, that I will not mention in an effort to keep this response anonymous, that supersede ATIPPA, 2015 and are cited regularly in decision making within our Public Body.

Don't know what has been done in the past.

The release of information can have ripple effects or affect another project or information. It's important to know what is going on in the department to understand the relationship of requests and the business of the department. This is hard to do when coordinators are not part or included in Executive.

I would only involve my supervisor who is political staff if it involved an overtime request.

I only say "rarely" to make reference to case law and commissioner reports and decisions. I do consult those often; however they typically reflect considerations set out in the Act (or applicable Acts).

You learn a lot about the department the longer you're there. However, if you move departments and you lose /don't have that connection, you lose valuable information which would help you understand the request, the work it represents and the sections to use correctly. It also helps to be at that level because requests come out of nowhere and you often wonder does this belong to the department and come to find out this is a project or initiative not communicated to you.

Our ATIPP coordinator stands on his own.

We have many other acts which apply to our department that must be considered.

There are sections of the Act, such as Section 39 that need re-examination to meet the needs of both companies and governments when providing and disclosing information. There also seems to be an unfounded belief that because government is funding/training/supporting a private enterprise that the public has a right to know everything about that companies finances/technology/secret sauce outside a particular funding relationship with government.

The requests that the [redacted] has addressed so far was handled adequately by the ATIPP Coordinator.

11. IF YOU COULD CHANGE ONE THING: (I) IN YOUR ROLE AS COORDINATOR; (II) IN THE ACT ITSELF, WHAT WOULD IT BE?

If I could change one thing in my role as Coordinator, it would be to have the ability to work out reasonable extensions with the applicant directly and provide notification to the OIPC instead of the extension request process. In the Act itself I would remove the 10-day advisory response letter provision altogether.

The role the OIPC has in terms of extensions. Processing requests can be very stressful, especially given the short timeframes for responding. I feel that it should be within the coordinator's discretion to determine whether an extension is required or not (for a finite period of time and under specific circumstances outlined within the legislation - e.g. consultations, clarification from applicant, etc.). It should only be larger extensions that have to be approved through the OIPC. The coordinator knows the file, they know the number of requests they are processing and how much time they can spend on each. I often have to work overtime to ensure requests are responded to within the legislated timeframe. For the most part I do not mind doing so. However, I do not appreciate having to spend additional time writing a request for extension trying to justify the days I will need to respond knowing that there are certain tasks that the OIPC deems unnecessary (e.g. time for the head of the public body to review the request, etc.), and not even knowing if I will get the time requested. Sometimes the OIPC will partially approve a request where I have provided significant details outlining the rationale for the extension and they only provide some of the time requested. While there may be a legitimate reason for this, they do not explain what they are or how they determined less time was necessary. On multiple occasions coordinators have brought this up with the OIPC (the lack of rationale provided) and they advised they will not provide additional details. It is extremely frustrating as there is no way to figure out how to proceed moving forward for future extension requests.

It can be more frustrating when they don't provide you with the time you request and then you are required to submit an additional request for extension (which they often approve). Why force the coordinator to complete two separate requests that requires twice the time. It's as if there is an assumption that coordinators are trying to get extra time so they can ignore a request, rather than so they can properly process it. I would not be looking for an extension if I didn't need it - the sooner I can respond to a request the better as you never know how many requests you are going to get tomorrow.

I have submitted a fair number of requests for extension over the years. For requests that were denied, they simply stated that it "would not be appropriate" to extension the timeframe - they do not explain why it would be inappropriate. For partial approvals they simply state "having reviewed the information provided in your application and considering all of the circumstances, this Office has determined that it is necessary and reasonable to approve an extension of time for responding to these access requests as follows..." and provide the time they have "determined is necessary". If they are going to deny an extension or modify it, they should be legislatively required to justify their response. Public bodies are required to provide significant detail in their extension requests, yet the OIPC is not held to the same standard or even close to it.

Applicants have always had the right to file a complaint with the OIPC if they are not satisfied with a response, including the time it takes for a public body to respond. This does not appear to have any added value other than making it "appear" that public bodies aren't abusing timelines.

The ability to grant our own extensions.

No changes; I don't deal with it often enough to know what may need to be changed.

I enjoy my job. The Act itself, I would:

1. Implement fees
2. Revamp the fee structure, what can be charged and amount of free time.
3. Amend the Act to include a provision that requires the applicant to be a participant in the process and include a provision to stop the clock while waiting for clarification.
4. Amend Section 21 to remove the 5 day requirement to request a disregard.
5. Amend S23 to remove the 15 day limit and the requirement to ask the OIPC for an extension.
6. Amend Section 19 relation to 3rd party notification.
7. Amend Section 3 in relation to requests for information when there are already processes in place to obtain the information.
8. Remove Section 15 - advisory letters. This is simply an administrative burden.
9. Finally, review the processes in place of the OIPC in relation to burden of proof and timelines associated with initiating an investigation. The OIPC should have legitimate and valid evidence to initiate an investigation into a public body. The amount of work required by a public body to respond to an investigation is quite extensive and challenging. The OIPC should have to meet a specific threshold prior to commencing an investigation. Additionally, they should be held to a time line standard. If we fail to respond within legislative time lines we are held accountable, but the OIPC doesn't appear to have the same standard.

I need to find a better process to have staff involved in the review and documentation of the responsive records to determine what information can and cannot be released. At the moment that is left entirely to the ATIPPA Coordinator.

Additionally, we need to do a better calculation of the amount of time to process ATIPPA requests. Often I am processing a request and may get interrupted for other operational business and lose track of the amount of time working on a request.

- (i) Provide 'more' not 'less' time to process request when [redacted] material is relevant.
- (ii) Provide more clarity in section 27 of ATIPPA regarding [redacted] material.

My work/life balance.

I would also like to change the business process for searching staff's (or past staff) emails. We have to submit a request to the OCIO for every request and include staff names or pst files for which we need access. The form can be lengthy and it can take days to get access and we only have access for a specific period of time. Furthermore the OCIO does not track these requests. So they will close access to my current ADM because the length of time requested for that ATIPP is up. However, I may have that same ADM on another request but since the OCIO closed out access I end up having to request it again.

As Coordinator: Change my line of reporting. My direct report involves me in some work that I feel unnecessarily consumes my time.

In the Act: Permit the Commissioner to declare an applicant a vexatious requester and put limits on them in terms of number and types of requests.

- (i) I believe that my position is fine for now.
- (ii) Extend the timelines to lessen the stress for everyone.
More resources and time.

- 1) more time to focus on improving ATIPP awareness and considerations.
- 2) Greater focus on organization transparency and public accountability.

More hands when needed. More back-up training for those hands.

To provide the Coordinator with more authority to release responsive records.

Add a fee to copy and scan information to prepare it for the proponent in a free PDF form.

Applicants can use the ATTIPA process as a form of punishment if they do not get their own way, [Redacted]

I would change the constraints currently placed on when to contact third parties. It would be beneficial if the Act provided more flexibility to allow coordinators to consult with third parties, regardless of the three parts harm test. The department is not the subject matter expert in third party information. If coordinators could consult with third parties, they would be more informed and make better decisions when determining disclosure.

Public education/PB awareness based on stated principles of open participation in a transparent public system of accountability.

As my role as the ATIPP coordinator I cannot cite anything that I would change within that job. I do enjoy the work, and often find it interesting.

There are several things that I would recommend changing in the act. These include, but are not limited to;

- request for extension timelines
- clearer definitions for custody and control of documents/information
- to ability to confirm the identity for an individual requesting information to prevent privacy breaches through the current process (require signature, ID, etc.)
- the ability to refuse information that is inaccurate

Nothing at this time.

To limit the number of applications from any applicant in any given year.

Entity-specific resources to guide employees on records management and release requirements

Greater timelines and require applicants to only have one active request in at a time.

More training is a must, not only for Coordinators, but for Councillors as well.

I know the Act is to essentially make governments more accountable but in a lot of cases it has become a hindrance. It has become so that you are not free to write anything down as you know that email or note or other form will become a record.

i) I would add additional resources to my role. This is very much a fast-growing area. I do not have the adequate resources to keep up with the demand on my position.

ii) The disregard deadline would be extended.

Provide the public body with the authority to disregard requests from a pseudonym at an anonymous email address. In other words, the requester must be an identifiable individual and not anonymous (understanding that the requester's identity must be kept in confidence by the ATIPP Coordinator).

I would want to be included at the Executive level. There is a lot I'd like to change but that one would show respect for the position, the access to information permitted and access to the DM. It would even the field among coordinators.

The Act - many things. The application and what coordinators have experienced needs to be heard. We all have issues with differing sections. I'd like to see better protection for the coordinators, more onus on applicants making requests, better timelines, less OIPC control and this review to make changes based on those in the absolute know when it comes to section issues - the coordinators. The first review didn't take application and potential issues into consideration or those responsible for applying this Act. It's not the head of the public body. It's the coordinators and we're forgotten.

The ATIPP Coordinator should only be accountable to the Deputy Minister. While seeking advice, opinion and records from all other staff and executives, the final redaction codes, choice of records to exclude should only be a conversation between the deputy minister and the ATIPP Coordinator. That is not my current experience. I report to a manager and a Director before the ATIPP process gets underway. When informing staff of reasons why the ACT does not allow for removal or withholding of records, I have been told I should recuse myself from the process. I have met with ADMs who bring in 2 or 3 staff that know nothing of the ATIPP to pressure me to do things their way (always met with their failure). My reading of the Wells report is the ATIPP coordinator must be autonomous to reasonably discharge the responsibility as advocate for the applicant. Difficult to do, when, on some occasions, there are barriers caused by the interest of career promotion on the part of some.

The Act is very broad and there are clauses within sections that can be utilized for an exemption but not necessarily under the purpose the section title describes. Example - Section 31 - Disclosure harmful to law enforcement contains clause (L) whereby disclosure of information may reveal the arrangements for security of a property or system including a computer or communications system. [Redacted]. It is not utilized for the sake of a law enforcement purpose, rather, not to provide the locations or security features of a company asset that if tampered with could shut down telephone, internet systems for the entire province. Training should include that all clauses of the Act can be utilized but not necessarily for the strict title of the section.

Timelines.

(i) There is nothing that I would change about my role as Coordinator.

(ii) I would like the Act to require requestors to provide some detail about the purpose of the request.

It needs to be a shared role - not one person.

Section 39.

A reduction in administrative duties and more flexibility.

The Coordinator role needs to be placed at a higher level in the organization. Former Chief Justice Wells in his 2014 review suggested it be placed at Director level equivalent. This would embolden the Coordinator with authority that does not exist at present and afford us the ability to push matters through the process more efficiently.

I am happy with my role as coordinator and the Act itself. I would not change anything.

Fees.

None at this time.

12. WHICH TYPE OF PUBLIC BODY DO YOU WORK FOR?

Municipalities – 13

Government Departments – 13

Other Public Bodies – 11

Prefer Not to Say – 2

13. HOW MUCH EXPERIENCE DO YOU HAVE AS AN ATIPP COORDINATOR BASED ON THE NUMBER OF ACCESS REQUESTS YOU HAVE PROCESSED?

Extensive - 12

Moderate - 15

Limited - 9

Prefer Not to Say - 3

14. ARE THERE ANY OTHER COMMENTS/SUGGESTIONS YOU WOULD LIKE TO SHARE?

Maybe consider in the future the options to review the privacy provisions of the ATIPPA separately from access? The access provisions usually get all the attention in reviews and privacy never seems to get as much consideration. This is despite of a lot of changes in information technologies impacting people's privacy.

Having the ability to work with the applicant a little more freely when it comes to timelines and providing information would be welcome and less burdensome. The administrative piece can feel a little overwhelming at times and this takes away from the intent of the Act. Two things that could

be looked at specifically to ease some of the administrative burden would be: 1) eliminate the 10-day Advisory Response letter. This letter is redundant for the most part in a straightforward request to the Acknowledgement letter which states much the same information. It feels like make work on top of the work that goes into providing the actual responsive records. 2) Coordinators having more ability to work with applicant regarding extensions. If the public body and applicant agree to a reasonable amount for an extension, this should be able to be communicated to the OIPC via notification of extension as opposed to the work that goes into submitting a formal request for extension to the OIPC. This will reduce workload on the public body coordinators and the OIPC.

I would like to thank you for providing coordinators with the opportunity to provide meaningful feedback during this process.

Staff are tremendously helpful at the ATIPP office.

It should be mandatory that all public employees undertake ATIPPA training.

No

Yes. There are a number of services offered by the government that include a fee structure. However the OIPC has provided recommendations that records released through these services are to be provided without cost if requested through ATIPP. The legislation needs to address the following:

I have replied to several applicants citing section 3(3) "This Act does not replace other procedures for access to information or limit access to information that is not personal information and is available to the public" and provided the applicants with a link to access that information. One of these applicants submitted a complaint to the OIPC and the OIPC maintained that we denied access to information when in my letter I told the applicant where to access that information. The OIPC viewed section 5(2)(a) " This Act is in addition to existing procedures for access to records or information normally available to the public, including a requirement to pay fees" to mean that even if there is a fee structure for the information that the information can be requested through ATIPPA for free. So the recommendation put forth was for the department to provide access.

And furthermore since this was a recommendation and not a decision, the OIPC has stated that I can continue to send applicants to the pay for fee service however, if they applicant makes a complaint that they are going to recommend we provide the records. I feel this is a very unfair position to put the coordinator. It shouldn't be my decision when to and when to not charge an applicant for information.

ATIPP cannot exceed the Government's ability to provide a service. This has happened in [Redacted].

Legislation is not written to be confusing or to be contradictory to itself. Please review and provide clear stipulations.

I have [redacted] years of direct, full-time experience in ATIPP. When ATI/FOI statutes were enacted in Canada, public body records were mainly paper-based. There was a registry in which all official records were carefully maintained; transitory records having no value were destroyed. Records were managed by secretaries and clerks. Today, all employees, regardless of rank, generate their own correspondence, whether emails, memos, letters, proposals, reports, etc. There are

countless emails between containing drafts of documents; there are no “official” records. Everything is subject to ATIPPA. Electronic storage systems means there’s absolutely endless storage of records that have no value and, as a result, all the emails and drafts are saved. There is no official mechanism to properly manage records. Even with an information management policy that permits transitory records to be destroyed, they rarely are – endless electronic storage and under-resourced employees with little time. But ATIPP requests for “all records concerning ...” mean the ATIPP coordinator is provided with hundreds and even thousands of responsive records, the majority of which are the same email threads, over and over, and ever expanding, many of which have absolutely no value, and multiple drafts, also most of which have no value. But the ATIPP coordinator must process them, with line-by-line reviews, and then the OIPC must review them, line by line.

There is a system call the ATIPP Toolkit, where Coordinators are able to access emails if required. The process calls for the head of the public body and those whose emails are being requested, to be made aware of the access request. The person(s) whose emails may be part of the access request are given the opportunity to search the emails themselves or let the ATIPP Coordinator search through what is called the Multi-Mailbox Search Tool, where only specific emails relating to the request can be retrieved. The problem, is that anyone whose emails are being requested, if they choose to search themselves, can tell an ATIPP Coordinator, that only certain emails exist or not at all. The ATIPP Coordinator would never know. This has the potential to compromise the integrity of the Act and the public body if it does not know that there may be records that have been withheld. An ATIPP Coordinator, through their search, will have a record of what has been searched, if there is an appeal, to demonstrate that the public body was acting in good faith.

ATIPP coordinator should be a stand-alone job, not an add-on to other responsibilities.

Personally, I believe that ATIPP should be run out of a single office as ATIPP coordinators are too often seen as overlooking the work of colleagues. There are staff in my department that cringe if they see me coming. In my department, our Solicitors are located externally, our Human resources are located externally, our financial and Comptroller roles are conducted externally - so the argument that ATIPP coordinators need to be physically located in a department is weak. By centrally locating them, you would have a rotation of coordinators working working with a department to limit the chance of coercion.

Thanks

Our [redacted] submission outlines concerns that I share with regard to the Act. My other comment would be to fully recognize the turnover in coordinators, the stress placed on coordinators, the workload of coordinators, the compensation of coordinators and the toll all of this places on an individual.

I am thankful for all the help and assistance I receive when I do have a request.

No.

ATIPP's appear to be increasing (aside from impacts of COVID19). It needs to be more manageable from an administrative perspective. There also needs to be clear protections for select third party information.

The benefits of sharing the role between 2 or more people include:

New people can be eased into the role

Mentorship is possible

more staff to share the work when requests increase and they can discuss difficult files
 staff are able to be involved in other roles
 may lead to less burnout
 the job may be attractive to more people - it is difficult to bring people into this role, few people really enjoy the work.
 Vacation is covered (or illness)
 Departments would have:
 coverage for ATIPP for vacation, illness, staff leave, etc.
 may have an easier time hiring people for the role.
 I could not do this role if it was not shared and I did not have opportunities to take on other work.

Access legislation in this province has had a strong history of review such that sustainment of a robust body of knowledge is impacted by multiple legislative revisions, high turnover of employees, and limited coordination of resources.

Nothing at this time.

I want to thank the ATIPP office for their guidance throughout this process, [redacted]. The OIPC office as well has been understanding and helpful.

1. The level of privacy expected for public bodies exceeds what most citizens expect; given how much personal information is shared.
2. GNL should consider efficiencies with all the separate oversight offices (i.e., OIPC, OCR, Child Advocate, Seniors Advocate, etc.). Examples could include co-location, shared administrative, policy, or research staff.
 - The ATIPP manual should be more aligned with ATIPPA. Often times there are ideas in the guidelines that aren't legislated with ATIPPA (ie: Acknowledgement letter).
 - The roles of the OIPC should be more clear within the Act. Often times the public body completes a large portion of an investigation on behalf of the OIPC.
 - The OIPC should also be held to more stricter timelines.
 - The inability to ask why someone is looking for the information can sometimes damage the public body, or result in the release of information not needed for the purpose of the Applicant. While we respect the applicants own right to information, the use of ATIPPA to gain information is not always the appropriate route and this is not known to the public body at the time resulting in a waste of resources and additional time for the applicant to get the proper information.
 - Other acts sometimes are outdated and conflict with ATIPPA, but supersede ATIPPA and therefore must be followed.

More training is needed.

There needs to be some balance between the right to know and the right to conduct business and I feel that something is missing here.

Many of the requests that have been received are from the same individual [redacted].
 I have had no experience in processing ATIPP request, I'm still fairly new in this position.

Just to reiterate the increased demand that I have observed in my role. I have been working in this area for a number of years and within that time all aspects of my job have grown significantly.

Access to information requests have become much more frequent and involved. Privacy concerns/awareness and technology advances have increased the need for training, consultation, and assessments. Generally, the importance of ATIPP has become much more recognized. All of this, while the deadlines and resources available remain the same - it is not sustainable.

Too many ...

No.

APPENDIX G: OPENING COMMENTS – JANUARY 18, 2021

Good Morning. Welcome to the public consultation sessions of the 2020 Statutory Review of the *Access to Information and Protection of Privacy Act, 2015*. My name is David Orsborn and I have been asked to act as a committee of one to conduct the five-year review required by s. 117 of the *Act*.

It is my task to examine, as instructed by my Terms of Reference “public and public body experience in using and administering” the *Act*. The Terms of Reference include a number of other specific areas for examination, including a direction to consider and report on three specific recommendations of the Muskrat Falls Inquiry chaired by Justice Richard LeBlanc. My report must be delivered to the Minister of Justice on or before March 31, 2021 [subsequently extended to June 30, 2021 due to intervening election].

The current legislation is the product of the extensive review and study conducted in 2014 by a three-person committee chaired by the Honourable Clyde K. Wells, Q.C. Their work has been widely acclaimed as establishing a solid and principled foundation for the access to information and protection of privacy regime in Newfoundland and Labrador.

That review confirmed that the public right of access to information is a high order quasi-constitutional right. The report and s. 3 of the *Act* explain why this right exists – it is to ensure “that citizens have the information required to participate meaningfully in the democratic process” and to increase “transparency in government and public bodies so that elected officials, officers and employees of public bodies (– and there are well over 400 public bodies -) remain accountable”.

But just as access to information is fundamental to our democratic system of governance, so too is the proper protection of personal information held by public bodies. While privacy protection, as noted by the Wells Committee, does not generate the same level of public interest as access to information, it is an aspect of public body information management that will become increasingly important as more and more data comes into the electronic hands of public bodies.

There are three main components of the *Act*. The first consists of the substantive provisions which confirm the public rights of access to information and personal information privacy and which set out various exceptions to those rights. The second is what I would call procedural – how those rights are to be exercised.

The third main aspect of the *Act* addresses the Office of the Information and Privacy Commissioner, the statutory office which is given the difficult task of overseeing the application of the *Act*, advocating for access to information and the protection of privacy and, at the same time, providing independent review of decisions made by public bodies under the *Act*.

I believe it is helpful to keep in mind the different nature of these aspects of the *Act* when considering recommendations for change.

This then is the context for this review.

The Committee has a website – www.nlatippareview.ca, and these public sessions will be livestreamed on that website. With respect to the Website setup, please let me express my gratitude to Necie Mouland and Katie Murray, both of Executive Council, for their work in helping us design and populate the website – it is due to their efforts that, among the many background pictures of puffins on the website, you can actually find a lovely shot of the Pinware River, in Labrador.

Our ability to livestream these sessions and to accommodate video appearances is all made possible by the efforts of three folks from the Broadcast Services staff of the House of Assembly. My thanks to Cathy Simms, Calvin Tobin and Darren Churchill for their assistance to date and for their ongoing technical supervision during these sessions.

To date the Committee has received 46 written submissions. Those submissions are posted on the Committee website. In addition, and similar to the process followed by the Wells Committee, I have received input on an anonymous basis from a number of ATIPP coordinators, the public servants tasked with the day to day administration of the *Act*. I have held five in-person or Skype group sessions with coordinators and have received 39 responses to written survey questions. These responses, with any identifying information redacted, will be included as an appendix to my final report.

The present sessions – which are open to the public – will be a combination of in-person and virtual presentations and will respect all necessary COVID protocols. The Office of the Information and Privacy Commissioner and a number of public bodies, private individuals and interested groups are scheduled to make submissions. After those what I will call general submissions, I will ask the Office of the Information and Privacy Commissioner for any concluding response or comments.

But there are two particular areas which have generated a lot of comment – the *Act*'s provisions relating to access to information in the context of workplace investigations – s.

33, and those relating to the protection of third party commercial interests – s. 39. I thought it would be helpful, to me at least, to hear views on these issues in separate focused round-table type sessions; the s. 33 session is scheduled for Wednesday, January 27, the s. 39 session for January 28.

Accordingly I ask that where a presenter is intending to participate in either or both of these sessions, they delay making their submission on the s. 33 and s. 39 issues until that particular session. I appreciate that there is some degree of overlap with other sections – particularly s. 19 – so I will leave it to each presenter to decide at what point they wish to make submissions on any related sections.

We all know, of course, that an election has just been called. There is an unwritten constitutional convention – the “Caretaker Convention” – that places constraints on an incumbent government with respect to its continued participation in ongoing public consultation or engagement sessions. I have been advised by the Deputy Minister of Justice that, during this caretaker period – from now until the formation of a new government – government public body representatives will not be able to make presentations.

This circumstance makes it necessary to consider its effect on the Committee process and schedule. I do not consider it either fair to other presenters or necessary to simply adjourn the Committee until a new government is in place. But I also consider it fair – and necessary for my own consideration – to ensure that a new government have the opportunity to consider its positions and to present and explain them in a public setting. Accordingly, what I am going to do is to proceed with all presentations, including the round tables, as presently scheduled, with the exception of the presentations of the ATIPPA Office, the Department of Justice on behalf of the Executive Council and government departments, and the response of the Office of the Information and Privacy Commissioner.

As soon as possible following the formation of a new government, I will schedule the presentations from government – these presentations will include any submissions on the roundtable issues. The Office of the Information and Privacy Commissioner will then be given the opportunity to provide its public response to all presentations.

Whether I will need to seek an extension beyond March 31 is a matter for later consideration.

The hearing schedule allots a specific time for each submission. I have reviewed all the submissions and I believe that the time allotted should be more than sufficient for a summary of the main points of each and for discussion of any questions I may have.

These sessions are intended to provide a forum for the public expression of the views of each presenter; it is not an adjudicative forum nor one for the airing of individual disputes or grievances. The *Act* is a high level public interest Act intended, in its access provisions, to protect and advance the interest of the public as a whole in transparent, accountable and excellent governance. I would ask that your submissions reflect the objectives of the *Act*.

All submissions made, whether in writing or verbally, will be carefully considered as I later work through the issues raised by the Terms of Reference. I do consider this review to be a collaborative effort, so during my consideration, I will consult further if and as I feel it necessary to fully appreciate the concerns and positions put to me.

My considerations will be informed both by the experience of the last five years and by what may reasonably be anticipated as technology advances and as changes to program delivery challenge our ability to properly protect personal information and privacy.

Let me say at the outset that, in the context of this review of the *Act*, change simply for the sake of change does not commend itself to me. Where the 2014 Review considered various opinions on a substantive issue and reached a reasoned conclusion, any adjustment to that substantive conclusion should in my view be contemplated only where a material change in circumstances or environment, or other compelling reason, requires its reconsideration. But on matters of procedure, five years of experience and increased usage can be an invaluable teacher. Where that experience suggests that the “on the ground” daily process of realizing the *Act*’s substantive rights could be improved, such suggestions should be seriously considered.

To all who have and will contribute to this process, my thanks for your commitment to access to information and the protection of privacy and for your thoughtful and considered submissions. While there will be differences of opinion on some issues, it has become quite clear to me that overall, there is a common commitment to the *Act* and its principles – and that is a tribute to you all.

And with that long introduction – only for the first day – I ask the Commissioner to speak to the submissions of his Office.

APPENDIX H: THE ROLE AND RESPONSIBILITIES OF THE ATIPP COORDINATOR

(Prepared by the ATIPP Office – Not reviewed by the Review Committee)

General

- The coordinator has the overall responsibility for managing and coordinating responses to ATIPP requests, requests for correction of personal information, and any complaints made in relation to either.
- Depending on the structure of the public body (i.e. privacy is the responsibility of another person within the organization), the coordinator is also responsible for ensuring compliance with the privacy provisions of the Act. In this capacity, they may be required to assist with or complete preliminary privacy impact assessments or privacy impact assessments for programs and services provided by the public body, review forms that collect, use or disclose personal information, and respond to privacy breaches.
- The coordinator must quickly assess the scope of a request, seek clarification if needed, understand it in a broader, strategic context, and apply significant subject-matter expertise in a short, statutorily-defined period of time. In addition, the ATIPP Coordinator must provide appropriate direction and advice to the public body in order to ensure its policies, procedures, programs and activities are fully compliant with the privacy provisions of the Act.
- The coordinator must understand and apply all relevant legislation and, as required, provide independent advice to the head of the public body.
- Liaise with the OIPC, as needed, in response to access or privacy complaints.
- The coordinator must address any consequences of a response to a request, including providing guidance and advice to affected stakeholders involved with the public body and coordinating the response of the public body to any complaint made to the Office of the Information and Privacy Commissioner (OIPC) and to any appeal filed with the Supreme Court of Newfoundland and Labrador.
- (Possible alternative – After completing an access request, provide to those involved any necessary follow up or guidance and participate as required in any complaint to the Office of the Information and Privacy Commissioner (OIPC) or appeal to the Supreme Court of Newfoundland and Labrador.)

- Provide specialized access to information and protection of privacy support and up-to-date and well-researched advice to the public body.
- In the context of a consultative approach with the head of the public body and in accordance with applicable legislation and policies/standards, the coordinator has significant freedom to act independently and with minimal oversight.
- The coordinator is in a position of trust within the public body, and requires access to all relevant information in order to ensure public body compliance with the legislation.
- The coordinator has regular contact with Executive in the public body, including the head and other senior officials. They also liaise, as necessary, with the OIPC.
- The coordinator must contribute to positive client relations by providing excellent customer service to applicants and staff within the public body.
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Specific Functions

Access to Information

- Manage and coordinate responses to ATIPP requests, including communicating with applicants, consulting with other public bodies as required to ensure completeness and consistency of responses, compile and assess all responsive records, sever information where appropriate, and coordinate with key stakeholders for the public body's official response.
- Work with various levels of staff within the public body and with the applicant, as required, to ensure request is understood and determine what is required for a response. Analyze records from the public body and consult with relevant staff (i.e. subject matter experts, executive, etc.), and, if required, with other public bodies. Once all required consultations are completed, provide the recommended final response for final review by the head of the public body, (unless the public body has a different process approved by the head).
- Prepare appropriate correspondence to applicants including compiling response packages, in a timely manner and allowing sufficient time for any necessary internal review process, if required. Prepare estimates and collect costs in accordance with the Cost Schedule.
- Ensure that the public body meets its statutory obligations, including timelines.

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- Maintain paper and electronic file management system associated with ATIPP requests, as required by the public body.

Privacy

- Either assist staff with completing or complete preliminary privacy impact assessments and privacy impact assessments, including reviewing and assessing privacy impacts for the program or service being reviewed and making specific recommendations to ensure compliance with the privacy provisions of *ATIPPA, 2015*.
- Assist public body with completion of privacy self-assessments, and monitor the public body or divisions within the public body for compliance with the privacy provisions of *ATIPPA, 2015*.
- Ensure compliance with privacy breach protocol if a privacy breach occurs, including mitigating risks to affected individuals; recommend controls and risk-reducing measures to mitigate the threat of future breaches, and complete privacy breach reporting form to submit to the OIPC and the ATIPP Office.
- Additionally, where required, liaise with the OIPC concerning privacy impact assessments respecting a common or integrated program of service involving the disclosure of personal information, pursuant to s.72 of *ATIPPA, 2015* and provide recommended courses of action to the project lead and head of the public body accordingly.

(As noted above, depending on the structure of the public body, the items referring to the privacy provisions of the Act may or may not apply.)

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APPENDIX I: SUMMARY OF SECTION 39(1) OIPC REPORTS

REPORT # AND DATE	PUBLIC BODY	RECORD OR INFO	S.39(1)(A) “TRADE SECRET/ FINANCIAL/ COMMERCIAL INFO”	S.39(1)(B) “SUPPLIED IN CONFIDENCE”	S. 39(1)(C) “SIGNIFICANT HARM”
Report A-2021-012 (Feb 12, 2021)	Public Service Commission	Records related to an employee wellness survey the PSC had conducted at the RNC	s. 39 did not apply as RNC is not a “third party.”		
Report A-2021-010 (Feb 18, 2021)	Memorial University	Records pertaining to the initiation, preparation, review and approval of MUN’s application to the OIPC for approval to disregard	Met	Met	Met
Report A-2020-029 (Dec 11, 2020)	Department of Health and Community Services	Third Party pricing per call for 811 line	Met	Not met	Consideration not necessary
Report A-2020-027 (Nov 27, 2020)	Memorial University	Records relating to the retention of outside counsel on a particular matter and legal invoices	Met	“Questionable”	Not met
Report A-2020-022 (Oct 5, 2020)	Town of Paradise	Civil construction third party tender forms with quantity & unit pricing tables	Met	Not met	Not met
Report A-2020-020 (Sept 16, 2020)	Intergovernmental and Indigenous Affairs Secretariat	Records referenced in a published document, which the requester believed would be in the custody of IIAS	Not met	Not met	Not met
Report A-2020-018 (Sept 15, 2020)	City of Mount Pearl	Third Party’s response to a Request for Proposal	Met	Not met	Consideration not necessary
Report A-2020-016 (Sept 1, 2020)	Department of Transportation and Works	RFP submission and Energy Adjustment Model of successful proposal	Met	Not met	Consideration not necessary
Report A-2020-009 (Jul 22, 2020)	Department of Finance	Correspondence between Dept and third parties re. net revenue information	Met	Not met	Not met
Report A-2020-008 (Jul 10, 2020)	Memorial University	Email messages	Concluded that s. 30 was properly applied and did not proceed with s. 39 analysis.		

Report A-2020-004 (Feb 3, 2020)	Department of Health and Community Services	Information about rebates provided by drug manufacturers	Met	Not met	Not considered
Report A-2019-030 (Nov 26, 2019)	Eastern Health	Contract awarded to a supplier, pricing, correspondence, meeting notes, pricing analysis	Not met	Not met	Not met
Report A-2019-029 (Nov 18, 2019)	Western Health	Contracts between Western Health and a supplier and pricing sheet	Not met	Not met	Not met
Report A-2019-027 (Oct 8, 2019)	Town of Stephenville	Correspondence between the Town and a Third Party regarding a legal action and its outcome	Partially met	“Potentially” (For records that met s. 39(1)(a))	Not met (For records that met s. 39(1)(a) - except for bank account no.)
Report A-2019-026 (Sept 26, 2019)	Office of the Chief Information Officer	Active or expired contracts for internet services with Third Party	Met	Not met	Not met
Report A-2019-012 (May 17, 2019)	Service NL	Financial report amounts Third Party (a lottery license holder) paid to another organization	OIPC did not proceed with analysis. Third Party did not to provide any s. 39 arguments and did not meet burden of proof.		
Report A-2019-005 (Jan 25, 2019)	Nalcor Energy	Evaluation of Applicant’s position and determination of salary	Met	Met	Not met
Report A-2019-001 (Jan 7, 2019)	Department of Health & Community Services	Third Party’s proposal and communications with Dept	Met	Not met	Not met
Report A-2018-023 (Sept 26, 2018)	Newfoundland Labrador Liquor Corporation	Request for responses submitted to a RFP	OIPC did not proceed with analysis. Third Party did not to provide any s. 39 arguments and did not meet burden of proof.		
Report A-2018-015 (Jul 3, 2018)	City of St. John’s	Award of a contract for vending machine services	Met	Not met	Not met
Report A-2018-014 (Jun 18, 2018)	Government Purchasing Agency	Bid responses to a Request for Proposals	Met	Not met	Not met
Report A-2018-007 (Apr 12, 2018)	Department of Natural Resources	Email between the Dept and Third Party re. Applicant’s complaint	Met	Met	Met

Report A-2018-003 (Jan 25, 2018)	City of St. John's	Information related to Kenmount Crossing	OIPC did not proceed with analysis. OIPC concluded that s.35 was properly applied.		
Report A-2017-022 (Sept 5, 2017)	Department of Municipal Affairs and Environment	All bids for a construction contract	Met	Not met	Not considered
Report A-2017-020 (Aug 10, 2017)	Government Purchasing Agency	Winning vendor's tender and related contracts	Met	Not met	Not met
Report A-2017-018 (Jul 24, 2017)	Department of Finance	Briefing materials relating to a specific borrowing program	Met	Not met	Not met
Report A-2017-017 (Jul 17, 2017)	Government Purchasing Agency	Bidder's proposals related to a RFP	Met	Not met	Not met
Report A-2017-016 (Jun 30, 2017)	The Rooms Corporation	Submissions made by the Third Party business to a Royal Commission	Met	Not met	Not met
Report A-2017-014 (May 9, 2017)	Memorial University of Newfoundland	Information relating to network services	Met	Not met	Not considered
Report A-2017-013 (May 8, 2017)	Department of Transportation and Works	Correspondence and emails exchanged between government and Third Party re. floor space	Met	Not met	Not met
Report A-2017-009 (Mar 10, 2017)	Department of Health and Community Services	Correspondence from the Dept and ambulance operators re. payment of wage subsidies	Met	Not met	Not met
Report A-2017-008 (Feb 10, 2017)	Eastern Health	Information re. the revocation of a personal care home's license	Not met	Not met	Not met
Report A-2017-007 (Feb 10, 2017)	Eastern Health	Information re. all personal care homes not in compliance with the Personal Care Home Operational Standards	Not met	Not met	Not met
Report A-2017-006 (Feb 10, 2017)	Central Health	Information re. all personal care homes not in compliance with the Personal Care Home Operational Standards	Not met	Not met	Not met

Report A-2017-005 (Feb 8, 2017)	Department of Business, Tourism, Culture and Rural Development	Correspondence regarding payments and subsidies to a Third Party	Met	Not met	Not met
Report A-2017-004 (Feb 8, 2017)	Department of Finance	Correspondence between Dept and a Third Party relating to video lottery terminals	Not met	Not met	Not met
Report A-2016-032 (Dec 22, 2016)	Memorial University of Newfoundland	Agreement between MUN and a group of oil and gas sector companies for funding	OIPC did not proceed with analysis. OIPC concluded that s.35 was properly applied.		
Report A-2016-030 (Dec 19, 2016)	Department of Health and Community Services	Consultant contracts, schedule of payments and scope of work.	Met	Not met	Not met
Report A-2016-029 (Dec 14, 2016)	Western Health	Correspondence, all tender bids in relation to a specific tender and a copy of a contract	OIPC did not proceed with analysis. Third Party did not to provide any s. 39 arguments and did not meet burden of proof.		
Report A-2016-028 (Dec 8, 2016)	Department of Natural Resources	Information regarding all consultants used by the Department of Natural Resources	Met	Not met	Not met
Report A-2016-027 (Dec 8, 2016)	Department of Natural Resources	Consultant contracts, schedule of payments and scope of work.	Met	Not met	Not met
Report A-2016-026 (Dec 2, 2016)	Department of Health & Community Services & Western Health	Third Party's correspondence, bid to tender and contract with Western Health	Met	Not met	Not met
Report A-2016-020 (Sept 26, 2016)	Department of Finance	Records (memos and info notes) related to casino gambling	Met	Met	Not met
Report A-2016-019 (Sept 22, 2016)	Department of Health and Community Services	MCP billings listed by physician	OIPC did not proceed with analysis. The Dept concluded that none of the submissions arguing in favour of withholding the information could s. 39 test.		
Report A-2016-017 (Aug 25, 2016)	Office of the Premier	Correspondence to and from the Office of the Premier related to casino gambling	"Might be met"	Not met	Not met
Report A-2016-016 (Jul 25, 2016)	Government Purchasing Agency	Disclosure of tender bids	Met	Not met	Not met
Report A-2016-008 (Jun 16, 2016)	Eastern Health	Records related to the security services contract with Third Party and Eastern Health	Met	Not met	Not met

Report A-2016-007 (Jun 10, 2016)	Eastern Health	Records re. provision of food and environmental services	Met	Not met	Not met
Report A-2016-006 (Jun 8, 2016)	Department of Natural Resources	Information about an archaeological / historical research project	Met	Not met	Not met
Report A-2016-003 (Mar 28, 2016)	Nalcor Energy	Civil Works Agreement and other records for the Muskrat Falls project	Not met (Exhibit 4, 14)	Not met	Not met
Report A-2016-002 (Feb 23, 2016)	Eastern Health	Contract which resulted from a RFP	Met	Not met	Not met
Report A-2016-001 (Feb 22, 2016)	Office of the Chief Information Officer	All documents resulting from an RFP	Met	Not met	Not met
Report A-2015-009 (Nov 10, 2015)	Eastern Health	Information on a computer system upgrade	Met	Not met	Not met
Report A-2015-006 (Oct 26, 2015)	Department of Finance	Records on the topic of casinos and casino-style gambling	Met	Met	Background - Not met Analysis – Met Financial Support – Not met Project Matthew – Met Current Gaming Policy – Not met Geosweep – Not met
Report A-2015-005 (Oct 21, 2015)	Office of the Chief Information Officer	Invoices relating to the work or expenses of a named contractor	Met	Not met	Not met
Report A-2015-004 (Oct 19, 2015)	Department of Finance	Copy of an Information Note about a proposal for a casino	Met	Met	Not met
Report A-2015-002 (Aug 27, 2015)	Eastern Health	Copy of the winning bid for an Eastern Health Tender	Met	Not met	Not met

<p>TOTAL:</p>	<p>57 OIPC ATIPPA access reports involving s. 39(1) analysis (out of 180 OIPC ATIPPA access reports that have been issued since June 1, 2015)</p>	<p>Met: 39 Not Met: 8 Partially Met: 1 Questionable: 1 No analysis: 8</p>	<p>Met: 6 Not Met: 41 Questionable: 2 No analysis: 8</p>	<p>Met: 2 Not Met: 40 Partially met: 1 Consideration not necessary: 3 Not considered: 3 No analysis: 8</p>
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APPENDIX J: SAMPLE OF ATIPP REQUESTS, JAN 3 – APRIL 3, 2019

#	REQUEST	RECORD CATEGORY	DATE	DEPARTMENT
PRE/36/2018[1]	Any expense reports, records and receipts filed by Peter Miles for his November trip to China.	Expense reports	2019-01-03	The Office of the Premier
PRE/35/2018[1]	Any expense reports, records and receipts filed by Premier Dwight Ball for his November trip to China.	Expense reports	2019-01-03	The Office of the Premier
TW/90/2018	Any and all communications or information concerning the land owned by the provincial government located on Snows Lane, St. John's. This includes, but is not limited to, any meetings, emails, directions, meetings scheduled in calendars, etc. since September 2017.	Correspondence	2019-01-03	Transportation and Works
TW/85/2018	Any and all communications or information concerning the land owned by the provincial government located at 34 Mews Pl, St. John's. This includes, but is not limited to, any meetings, emails, directions, meetings scheduled in calendars, etc. since September 2017. In addition, any and all communications or information concerning the numbered company 80521 NL Inc.	Correspondence	2019-01-03	Transportation and Works
FLR/122/2018[1]	Correspondence between the department and representatives of Active Energy or Timberlands or other affiliated companies. Request includes records in any and all formats, including paper and electronic. Date range of request is Nov. 1, 2018 to the present.	Correspondence	2019-01-03	Fisheries and Land Resources
EECD/29/2018	All information regarding complaints about a teacher in in St. John's, from the period of September 1, 2011 to present.		2019-01-07	Education and Early Childhood Development
FLR/110/2018	I am looking for any and all information in regard to a "Forestry Operation - Commercial Cutting Permit #16-12-01174". This permit appears to have been issued to "Marathon Gold Corporation" for an area encompassing their mining exploration near Victoria Lake.	Permit information	2019-01-07	Fisheries and Land Resources
FLR/128/2018	All correspondence between Eastern Fish Markets - Wayne Wheaton and Department of Fisheries in 2017/18 regarding Sea Urchin.	Correspondence	2019-01-07	Fisheries and Land Resources
FLR/114/2018	Application for 113 acres of agricultural land at the Witless Bay Line area of the Southern Shore.		2019-01-07	Fisheries and Land Resources
TW/95/2018	All requests/complaints/etc. received in the fall 2018, through the engage NL program relating to the 5 year roads plan for the following areas/routes. - Chapel Arm - Norman's Cove-Long Cove - Route 201.		2019-01-07	Transportation and Works
TW/158/2017	Information on the lack of exit from the second floor of the control house to the outside on the Sir Ambrose Shea Lift Bridge on Placentia Gut, and the use of access scaffolding and ladder(s) to provide exits to ground in front of control house.		2019-01-07	Transportation and Works
HRS/25/2018	Any messaging prepared for the fall sitting of the house of assembly during the month of October 2018.	Messaging	2019-01-07	Human Resource Secretariat
FIN/104/2018	I would like a summary of revenue recorded on a monthly cash basis in the accounting records of the government of NL.	Budgetary	2019-01-09	Finance
FLR/120/2018[1]	I am requesting any / all information pertaining to a company called Marathon Gold Corporation and interactions with this government dept.		2019-01-09	Fisheries and Land Resources
TW/97/2018	Tender O83-18PHP issued in the late summer 2018, included paving of local roads in the Local Service District of Bellevue. These roads were not identified in the 2017 or 2018 provincial roads plan for any work. Please provide any/all correspondence from the dept and MHA, regarding the these roads, and the reasoning for including in the tender. Also please provide information regarding the condition of the road prior to upgrades. Please also provide the total estimated cost and total actual cost for the work, and where this funding came from.		2019-01-09	Transportation and Works

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TW/96/2018	Any and all records related to Mr. John Allan or Mr. Glenn Barnes. This includes, but is not limited to, text messages, BBMs, hand written notes, emails, calendar requests, etc. The date range is December 1, 2015 to Present Day.		2019-01-09	Transportation and Works
JPS/221/2018	I am seeking all documents (emails, briefing notes, etc.) regarding the transition of marriage commissioners to performing same-sex marriages in 2004, including the documents related to the resignation of commissioners unwilling to perform same-marriages		2019-01-14	Justice and Public Safety
TCII/54/2018	Briefing materials, decision notes, information notes, and key messages - in any and all formats, including paper and electronic - prepared for, and/or provided to, the minister, on the topic of air access, airline route promotions, and/or support for flights linking the province to national and international destinations. Date range of request is Jan. 1, 2018, to the present.	Briefing notes/Messaging	2019-01-14	Tourism, Culture, Industry and Innovation
TCII/53/2018	An itemized list of any assistance provided by the government to support air routes in or out of the province via the Air Access Development Fund, the Airline Route Promotion and Advertising Rebate, or successor programs. Please include amount of assistance, name of company receiving assistance, route assisted, and date/duration of payment. Date range of request is Jan. 1, 2018, to the present.	Subsidy information	2019-01-14	Tourism, Culture, Industry and Innovation
TCII/55/2018[2]	On Nov. 25, 2018, TCII Minister Christopher Mitchelmore sent a tweet referencing work "with our partners in St John's, DMO & Airport to put an offer of marketing & promotion of \$800,000 to support this direct flight as we have supported flights in past." https://twitter.com/MitchelmoreMHA/status/1066672258729603075 This tweet was in apparent reference to the cancelled YYT-DUB Westjet flight. My request is for correspondence between the department and external companies, bodies and agencies, with respect to this offer of marketing and promotion. Date range of request is Oct. 1, 2018, to the present.		2019-01-14	Tourism, Culture, Industry and Innovation
MAE/133/2018[1]	Copies of the results of drum testing found in the Humber Canal Deer Lake drinking water supply. Numbers of drums found in the water at the Humber Canal. List of all equipment found at the Humber Canal and all supporting documentation. Removal plan and schedule.		2019-01-14	Municipal Affairs and Environment
MAE/138/2018[1]	I am requesting all correspondence and documents related to Ragged Beach, Gallows Cove Road and Mallowneys Lane in the Town of Witless Bay from April 1 2018 to December 10 2018.		2019-01-14	Municipal Affairs and Environment
MAE/140/2018	All CEEP (Community Enhancement Employment Program) funding requests and approvals by provincial electoral district (and dates requested/approved) since December 1, 2015.	Subsidy information	2019-01-14	Municipal Affairs and Environment
NR/250/2018	Any and all reports from independent experts or consultants commissioned by the Department of Natural Resources, Government of Newfoundland and Labrador, to review, study, or estimate the status of mineral reserves at the Scully Mine, Wabush Mines, Wabush, NL.	Policy advice	2019-01-14	Natural Resources
TW/25/2018[1]	Requesting full File of Quidi Vidi Village Slipway " Expropriation dated July 11th,1974 , Registry of Deeds Volume 1646 Folio 10-14 " and Complete File of 2016 Request to Purchase the slipway / launchway Record # COR/2016/02284. All information related this property in Quidi Vidi Village from internal and external parties.		2019-01-17	Transportation and Works
FLR/108/2018[1]	All records of any nature, in any medium or format, which relate to scientific research and/or findings by Senior Wildlife Biologist for the former Department of Environment and Conservation, Goose Bay, Labrador, for the time period September 1st, 2009 to August 31, 2010.		2019-01-17	Fisheries and Land Resources
MAE/84/2018[1]	I am applying to receive a copy of the appeal application and related material submitted to build two duplexes at 7-9 Cliffside Avenue in the town of Conception Bay South.		2019-01-17	Municipal Affairs and Environment
MAE/74/2018	Any and all records, correspondence, briefing notes, etc. regarding appointing people to the Labrador Regional Appeal Board since Jan. 1, 2017.		2019-01-17	Municipal Affairs and Environment
FIN/101/2018	Please provide any briefing notes, information notes, reports, emails, or any other records which include an evaluation of the current Atlantic Accord Framework and/or Equalization formula conducted since January 1, 2016.		2019-01-21	Finance

IIAS/16/2018	Any briefing notes, information notes, reports, emails, or any other records which include an evaluation of the current Atlantic Accord Framework and/or Equalization formula conducted since January 1, 2016.		2019-01-21	Intergovernmental and Indigenous Affairs Secretariat
AESL/47-51/2018	Canada-Newfoundland and Labrador Job Fund Agreement (JFA) Performance Report 2017-18; College of the North Atlantic's Modernization Plan - September 2018 Update; Information Note - Memorial University's Proposed Faculty of Law; Information Note - Changes to Academic Programming at College of the North Atlantic; and Information Note - Innu Impact and Benefits Agreement (IBA) Pay-outs.	Briefing notes	2019-01-21	Advanced Education, Skills and Labour
PRE/40/2018	All correspondences from the Premier and the Premier's office to Bruce Chaulk, Commissioner of Legislative Standards, from April 25, 2018 to and including October 19, 2018 including emails, text, letters, etc asking Bruce Chaulk for an opinion regarding bullying and harassment allegations. All correspondences from April 25th, 2018 to April 26th, 2018 between the Premier's Office, the Premier, Executive Council and the Department of Justice concerning the Public Service Harassment policy that was suppose to take place June 1, 2018. All emails, texts, letters and any type of correspondence between Minister Sherry Gambin-Walsh and the Premier's Office between April 8, 2018 and July 13, 2018 and all texts, messages, etc. between Minister Sherry-Gambin- Walsh and Greg Mercer, Chief of Staff, from April 8, 2018 to July 13, 2018.	Correspondence	2019-01-21	The Office of the Premier
PRE/41/2018	Please provide any briefing notes, information notes, reports, emails, or any other records which include an evaluation of the current Atlantic Accord Framework and/or Equalization formula conducted since January 1, 2016.		2019-01-21	The Office of the Premier
NR/259/2018[1]	I would like to receive all correspondence between the Department of Natural Resources and Husky Energy, and the Department of Natural Resources and the CNLOPB, referring to the predicted storm and the consequent oil spill, between the dates of November 14th to date.	Correspondence	2019-01-21	Natural Resources
NR/254/2018[1]	Please provide all departmental records relating to the oil spill at Husky Energy's SeaRose project on November 16, 2018, from that date to the present.		2019-01-21	Natural Resources
NR/260/2018	Please provide any briefing notes, information notes, reports, emails, or any other records which include an evaluation of the current Atlantic Accord Framework and/or Equalization formula conducted since January 1, 2016.		2019-01-21	Natural Resources
NR/1/2019	A list of all briefing notes provided to the minister of natural resources in December 2018.	Briefing notes	2019-01-21	Natural Resources
HCS/60/2018[1]	Records of email correspondence between the Department of Health and Community services and various staff from Sequence Bioinformatics Inc. from the year 2016.	Correspondence	2019-01-21	Health and Community Services
FIN/103/2018	Any and all communications or information concerning Kevin Casey of the Idea Factory since December 1, 2015. This includes, but is not limited to, any meetings, emails, directions, meetings scheduled in calendars, work product, etc.		2019-01-22	Finance
TCII/57/2018	Any and all records concerning the Woodward Group of Companies, and/or concerning the individuals from the Woodard group of companies board.		2019-01-22	Tourism, Culture, Industry and Innovation
MAE/135/2018	Briefing materials - in any and all formats, including paper and electronic - prepared for, and/or provided to, the minister. Request includes information notes and decision notes. Date range of request is Nov. 1, 2018 to the present.	Briefing notes	2019-01-22	Municipal Affairs and Environment
AESL/46/2018	Information regarding the development of a Childcare Centre/Facility at Grenfell Campus, Memorial University.		2019-01-22	Advanced Education, Skills and Labour
TW/101/2018	Any and all information (including cost to the taxpayer) about the mobile lights used to light the parking lot of confederation building. I believe these lights were installed/rented after a storm a few years back.	Budget	2019-01-22	Transportation and Works
SNL/17/2018	FIN-25-2018 Re: Radio Bell Island Inc. I request a copy of all funds paid to St. Michael's Regional High School (SMRHS) by Radio Bell Island Inc. (aka Radio Bell Bingo) from September 1, 2016 through to and including January 31, 2018.		2019-01-22	Service NL

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NR/2/2019	Dept Nat resources Atipp Jan 06 2019 1/ re Transmission line (TL upgrade) 275 MW TL 267 from Bay d' Espoir to the western Avalon -to get power to the Avalon - BDE TL upgrade in capacity to allow an increase of 176MW in existing hydro generation to get to Avalon. Provide all emails to and from Jerome Kennedy from Jan 01 2012 to Jan 01 2016- re this re 275 MW TL 267.		2019-01-25	Natural Resources
TCII/58/2018	The Environmental Indemnification Agreement signed between the province and Friede Goldman Newfoundland Limited around 1997 or 1998 in conjunction with the sale of the Marystown shipyard assets, any subsequent changes to the agreement when it was assigned to Peter Kiewit Sons Co. Limited around 2002, and the current agreement in effect.		2019-01-25	Tourism, Culture, Industry and Innovation
MAE/2/2019	Any and all information to and from mayor Cyril Brown of St. Jacques-Coombs Cove in 2018.		2019-01-25	Municipal Affairs and Environment
AESL/52/2018	Any and all information related to CNA and the granting of degrees (not diplomas) at the Qatar campus since December 2015.		2019-01-25	Advanced Education, Skills and Labour
EECD/1/2019	Information notes, decision notes, analyses, and/or other background or briefing materials - in any and all formats, including paper and electronic - related to enhanced financial systems and controls at the N.L. English School District and/or the auditor general's report on procurement at the school district. Date range of request is Sept. 1, 2018, to the present.	Briefing notes	2019-01-28	Education and Early Childhood Development
MAE/147/2018	All info containing to the resettlement process for little bay islands. cost to move the people, info on how government will save, all info pertaining to the process, excluding names.		2019-01-28	Municipal Affairs and Environment
TW/100/2018	Any and all records since December 2015 concerning the site of the former paper mill in Grand-Falls Windsor. This includes any taxes being paid by the provincial government on the site to the town of GFW.		2019-01-28	Transportation and Works
HCS/6/2019	The operational plan for the audit services division that does MCP fee-for-service audit work.		2019-01-29	Health and Community Services
TCII/59/2018[1]	Any and all communications (specifically thinking email, but also interested if anything else if available- BBM, fax, etc) regarding minister Chris Mitchelmore's attendance at the Dubai Air Show in November 2017. Also looking for names of any government employees accompanying the minister.	Correspondence	2019-01-29	Tourism, Culture, Industry and Innovation
MAE/148/2018	Any and all record of communications (including, but not limited to: fax, email, BBM) with the Town of Grand Falls-Windsor, or any of its officials, from Jan. 1, 2017 to date (Dec. 27, 2018), specifically regarding the former Abitibi paper mill property.	Correspondence	2019-01-29	Municipal Affairs and Environment
HCS/7/2019	Records detailing ministerial orders related to audits of MCP billings as outlined in the flows charts "11.11.8 Alternate Dispute Resolution (ADR)" and "11.11.9 Hearing by Audit Review Board" of the Medical Care Plan (MCP) Physician Information Manual. Request also includes records detailing provider response (acceptance or rejection) as described in the flow chart "11.11.10 Ministerial Order" and records detailing disposition of cases as described in the flow chart "11.11.11 Appeal to the Supreme Court Trial Division." Request covers the fiscal years 2015-16, 2016-17, 2017-18 and 2018-19.		2019-01-29	Health and Community Services
FLR/117/2018[1]	All correspondence, emails, and documents relating to Crown Lands application 152993.		2019-01-30	Fisheries and Land Resources
TCII/37/2018	All records of any nature, in any medium or format, which relate to funding provided to Labrador Hunting and Fishing Association, HVGB, for the time period January 1st, 2017 to present day.		2019-01-30	Tourism, Culture, Industry and Innovation
FLR/111/2018[1]	I am requesting any and all correspondence, records, files or reports in any form, relevant to, pertaining to or in any way connected to files 126753 and 150638. Timeframe is 2016 to current.		2019-01-30	Fisheries and Land Resources
EECD/6/2019	I'm looking for communications between the Eastern School District and the Education Minister and the Justice Minister in regards to the Bullying Policy and Legislation.	Correspondence	2019-02-13	Education and Early Childhood Development

TCII/1/2019	All correspondence regarding the decision made involving the issuing of the wood permit to AEG/TL Incorporation, and location of wood pellet plant and operations of a sawmill between the following persons from January 2017 to present. - Christopher Mitchelmore - Gerry Byrne - Richards Spinks AEG/ TL Incorporation - Department of Fish & Land Resources to include Ted Lewis, George Gibbons, Colin Carroll, Stephen Balsam and Eric Young. - Premier Dwight Ball.		2019-02-13	Tourism, Culture, Industry and Innovation
LAS/1/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-02-13	Labrador Affairs Secretariat
IIAS/2/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-02-13	Intergovernmental and Indigenous Affairs Secretariat
MAE/3/2019	RFP - PRIME CONSULTANT SERVICES RELATED TO STORM SEWER, & ROAD UPGRADES In Town of Bay Roberts: Technical and Financial Submissions from all proponents.		2019-02-13	Municipal Affairs and Environment
MAE/17/2019	Looking for a listing of all prices received for Proposal for Prime Design Consulting Services, Glendale Avenue, Bradley Place and St. David's Avenue Reconstruction, City of Mount Pearl (November 2018).		2019-02-13	Municipal Affairs and Environment
MAE/20/2019[11]	The Mayor Don Coombs and Council of Harbour Grace received a letter from Dept of Municipal Affairs and Environment, Eastern Regional Office, dated January 8, 2019 (COR/2018/03749-02). The first sentence of the first paragraph states "in November, the Department received a letter of concern regarding the Town's operational and financial matters." Request a copy of that letter.	Correspondence	2019-02-13	Municipal Affairs and Environment
AESL/4/2019	All current, projected allocations, and awards under the wage subsidy program in forestry, agriculture, and aquaculture. This includes proposals, approvals, etc.	Subsidy information	2019-02-13	Advanced Education, Skills and Labour
TW/2/2019	A spreadsheet listing all contracted work by the provincial government in the communities of Norman's Cove-Long Cove and Chapel Arm and affecting route 201 and the intersection with the TCH, list to include work from 1990 to current. List to include the following: Tender/ID Number Detailed Description of Work Awarded Contractor Total Amount Paid to contractor.	Public procurement	2019-02-13	Transportation and Works
TW/5/2019	Any and all records related to Mr. John Allan or Mr. Glenn Barnes in the crown lands or realty division (Anyone below ADM level). This includes, but is not limited to, text messages, BBMs, hand written notes, emails, calendar requests, etc. The date range is December 1, 2015 to Present Day.		2019-02-13	Transportation and Works
NR/4/2019	The December 2018 meeting note for the minister titled Meeting with NARL.	Briefing notes	2019-02-13	Natural Resources
NR/5/2019	The December 2018 information note for the minister titled High Level Export Options.	Briefing notes	2019-02-13	Natural Resources
NR/6/2019	BN: high level export options (from December 2018)	Briefing notes	2019-02-13	Natural Resources
NR/7/2019	BN: Meeting with NARL (from December 2018)	Briefing notes	2019-02-13	Natural Resources
NR/8/2019[11]	All information regarding hiring of new communications director with department, excluding personal information such as resumes. Time period would be from September 2018 to present.		2019-02-13	Natural Resources
JPS/228/2018	Data relating to provincial inmates.		2019-02-13	Justice and Public Safety
JPS/1/2019	Any emails, reports, or other materials sent from or received by Jonathan Galgay and other members of the St. John's City Council from December 2014 to September 2017 regarding the sex trade, prostitution or human trafficking.		2019-02-13	Justice and Public Safety

HCS/12/2019	Please provide a copy of the three-year agreement the Government of Newfoundland and Labrador signed with the Pharmacists' Association of Newfoundland and Labrador. It was announced by news release on January 9, 2019: https://www.releases.gov.nl.ca/releases/2019/health/0109n01.aspx .		2019-02-13	Health and Community Services
HCS/4/2019	Information notes, decision notes, analyses, and/or other background or briefing materials - in any and all formats, including paper and electronic - related to moving the Medical Transportation Assistance for Income Support Clients program to the Department of Health and Community services in 2018, and the operation of the program after the move.	Briefing notes	2019-02-13	Health and Community Services
FIN/5/2019	The Finance Minister has said that 35% of the province's net debt is due to borrowing related to the Muskrat Falls project. Please provide the analysis/calculations and any key messages which were used to inform this comment.		2019-02-13	Finance
HRS/1/2019	For each of 2016/17, 2017/18, 2018/19, you are looking for: CPS Numbers per Department and Employee Type. In addition to this information, please indicate in which category, and how many, "13 weekers" are currently employees in each government department. The number of new hires per month for each month of those years. Please break this down by Contractual, Permanent, Seasonal, Temporary, and 13-week contacts.		2019-03-01	Human Resource Secretariat
TCH/12/2019	Any and all records, of any nature/format, that relate to a 1998/1999 Moratorium on new entrants to the Outfitting sector of Labrador. Information to further include, but shall not be limited to, a list of all Outfitting Establishments currently licensed by Tourism, along with corresponding dates of when each establishment became licensed, the nature of the licenses (consumptive or non-consumptive), and a breakdown of the quotas (wildlife licenses) held per establishment, if applicable.		2019-03-01	Tourism, Culture, Industry and Innovation
TCH/14/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-03-01	Tourism, Culture, Industry and Innovation
FLR/61/2018	I am requesting any and all documentation related to Seal Product Inventory Financing, including any written reports, recommendations, and correspondence to or from the department on this issue. Timeframe? 2014 to 2018.		2019-03-01	Fisheries and Land Resources
FLR/62/2018[1]	Information relating to crown land in Flatrock.		2019-03-01	Fisheries and Land Resources
MAE/16/2019	The Town of Steady Brook is currently undergoing a "section 4" type investigation, section 4 of the Municipal Affairs Act. I would like information related to other section 4 investigations that other Newfoundland municipalities have undergone.		2019-03-01	Municipal Affairs and Environment
AESL/3/2018[1]	I am requesting a copy of all emails sent/received by the Minister from September to present regarding Memorial University and MUN.	Correspondence	2019-03-01	Advanced Education, Skills and Labour
NR/9/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public Procurement	2019-03-01	Natural Resources
NR/13/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-01	Natural Resources
HCS/9/2019	Information regarding fee codes for various procedures.		2019-03-01	Health and Community Services
HCS/26-50/2019	Information relating to the NL Centre for Health Information, NL Pharmacy Board and NL Pharmacy Association.		2019-03-01	Health and Community Services
EECD/8/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-03-04	Education and Early Childhood Development

FLR/10/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-03-04	Fisheries and Land Resources
CSSD/8/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-04	Children, Seniors and Social Development
CSSD/11/2019	Information regarding violence against social workers by clients, and CSSD protocols related to such. Time period: April 2009 to the date of this request.		2019-03-04	Children, Seniors and Social Development
CSSD/2/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-03-04	Children, Seniors and Social Development
CSSD/13/2019	The number of PIP files which have been reviewed by the Child Youth Advocate due to complaints by PIP clients by year since April 2009.		2019-03-04	Children, Seniors and Social Development
LAS/2/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-04	Labrador Affairs Secretariat
IIAS/1/2019	Records related to a meeting between deputy minister Patricia Hearn and federal Department of Finance officials scheduled for July 25, 2018.	Briefing notes	2019-03-04	Intergovernmental and Indigenous Affairs Secretariat
IIAS/3/2019	A list of all external consulting contracts commenced or renewed since Dec. 1, 2015.	Public procurement	2019-03-04	Intergovernmental and Indigenous Affairs Secretariat
IIAS/6/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.		2019-03-04	Intergovernmental and Indigenous Affairs Secretariat
AESL/9/2019	Information on any funding provided to the Basilica of St. John the Baptist (St. John's, NL) since December 2015.	Subsidy information	2019-03-04	Advanced Education, Skills and Labour
AESL/6/2019	Any statistical information and data records regarding wage increases in collective agreements in the province of Newfoundland and Labrador from the last 4 years.		2019-03-04	Advanced Education, Skills and Labour
AESL/8/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-04	Advanced Education, Skills and Labour
FIN/11/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-03-04	Finance
HRS/8/2019	Please provide a list of all external consulting contracts commenced or renewed since Dec. 1, 2015. For each instance, please specify the name of the individual or company consulting, the date the contract was initially commenced or renewed, the date the contract was concluded (or, if it's still ongoing, please specify) and the total dollar figure paid to date to the consultant for that project.	Public procurement	2019-03-04	Human Resource Secretariat
EECD/11/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-04	Education and Early Childhood Development
HCS/15/2019	Deloitte report on The Gathering Place, conducted in 2018.	Policy Advice	2019-03-05	Health and Community Services

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TCH/11/2019	IM policies for the Research and Development Corporation (now closed).		2019-03-05	Tourism, Culture, Industry and Innovation
MAE/78/2018[1]	All information pertaining to appeals with the Eastern Regional Appeal Board.		2019-03-05	Municipal Affairs and Environment
AESL/10/2019	Emails from the Minister and staff to MUN staff regarding the establishment of a law school at MUN. Time period: December 2015 to present.	Correspondence	2019-03-05	Advanced Education, Skills and Labour
NR/11/2019	I am requesting access to all communications between this Department and a mining exploration company operating in Central Newfoundland, known as Marathon Gold Corporation - for the period covering all of this year (2019) to date.	Correspondence	2019-03-05	Natural Resources
NR/3/2019	The December 2018 information note titled Beaver Brook Antimony Mine Inc. Status Update.	Briefing notes	2019-03-05	Natural Resources
JPS/13/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-05	Justice and Public Safety
JPS/16/2019	The report "Newfoundland and Labrador Corrections and Community Services: Deaths in Custody Review" was released Feb. 6. I request an unredacted copy of that report. If redactions are deemed required under the Access to Information and Protection of Privacy Act (ATPPA), please cite reasons, with reference to exceptions as listed in the Act.	Policy advice	2019-03-05	Justice and Public Safety
JPS/6/2019	I would like copies of any correspondence between the Department of Justice and Public Safety, the Royal Newfoundland Constabulary, the Ontario Provincial Police and/or the Alberta Serious Incident Response Team, with regard to the investigation into the fatal police shooting of Jordan McKay in Corner Brook, NL in late November 2018 sent between Nov. 28, 2018 to present.		2019-03-05	Justice and Public Safety
JPS/10/2019	All email correspondence between Justice Minister Andrew Parsons and 1) MP Seamus O'Regan and 2) MP Ralph Goodale, respectively, from January 1, 2017 to January 31, 2019.	Correspondence	2019-03-08	Justice and Public Safety
FLR/13/2019[1]	I am requesting access to all communications between this Department and a mining exploration company operating in Central Newfoundland, known as Marathon Gold Corporation - for the period covering all of this year (2019) to date.	Correspondence	2019-03-08	Fisheries and Land Resources
AESL/7/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-08	Advanced Education, Skills and Labour
EECD/13/2019	Records from December 2015 to the date of this request, regarding school violence, specifically incidents of violence against school faculty or students. Emails and documents regarding the development of protocols for dealing with such.		2019-03-11	Education and Early Childhood Development
TCH/18/2019	I would like access to any records pertaining to the financial amounts paid for contracts for maintenance, operations and overall management of Marble Mountain ski resort and/or the Marble Mountain Development Corporation.	Public procurement	2019-03-11	Tourism, Culture, Industry and Innovation
HCS/21/2019	Please provide me with all documentation provided by the department of Health and Community Services to Deloitte in relation to the funding model review. Also, please provide me with all emails between the department of Health and Community Services and Deloitte between September 1, 2018 and February 6, 2019.		2019-03-11	Health and Community Services
FIN/15/2019	Please provide a listing of all payments from the Government of Newfoundland & Labrador to Tourism Bell Island Inc. from August 21 2017 to February 7 2019. Please include the following information fields: -Department which authorized the payment -Description of the Payment -Reference number of the payment -Amount of the payment.	Public procurement	2019-03-11	Finance
FIN/13/2019	I am requesting access to all communications between this Department and a mining exploration company operating in Central Newfoundland, known as Marathon Gold Corporation - for the period covering all of this year (2019) to date.	Correspondence	2019-03-11	Finance
EECD/16/2019	January 2019 Meeting Note titled Conseil scolaire francophone provincial.	Briefing notes	2019-03-11	Education and Early Childhood Development

EECD/3/2019[1]	Correspondence - in any and all formats, including paper and electronic - between the department and NLESD related to so-called "courtesy stop" exemptions to the province's 1.6-km school busing rule. Date range of request is May 1, 2018, to the present.	Correspondence	2019-03-11	Education and Early Childhood Development
OCIO/5/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-15	Office of the Chief Information Officer
TCII/2/2019	Looking for information of the sale and agreement between Big Falls Tourist Lodge to the Humber Lodge Big Falls in the Sir Richard Squires Memorial Provincial Park. Including the lease agreement between Lodge and the Province.		2019-03-15	Tourism, Culture, Industry and Innovation
SNL/15/2018[1]	Please provide copies for any lottery license applications and/or lottery reports for IceCaps Cares un 2011, 2012, 2013, 2014, 2015, 2016, 2017.		2019-03-15	Service NL
SNL/61/2018[1] SNL/61/2018[1](2)	Please provide any/all emails, texts, meeting minutes, briefing notes and telephone conversations for interior and exterior construction work including asbestos removal, performed on 319 Duckworth Street during work hours, as well as, when building was closed for the time period of 2007 to current date.		2019-03-15	Service NL
JPS/12/2019	Pages 3-34, inclusive, of the report "The Newfoundland and Labrador Corrections and Community Services: Deaths in Custody Review."	Policy advice	2019-03-15	Justice and Public Safety
JPS/18/2019	Any emails, reports, or other materials sent from or received by Minister Parsons since December 2015 regarding the sex trade, prostitution or human trafficking.		2019-03-15	Justice and Public Safety
JPS/3/2019	Information notes, decision notes, analyses, and/or other background or briefing materials - in any and all formats, including paper and electronic - related to the Family Violence Intervention Court pilot project in Stephenville and its possible expansion to other areas of the province. Date range of request is Jan. 1, 2018 to the present.	Briefing notes	2019-03-15	Justice and Public Safety
JPS/8/2019	All records, including but not limited to handwritten and electronic communications, briefing notes and memorandums, related to the July 28, 2017 letter from five Canadian Senators to Premier Ball regarding the incarcerations of Labrador Land Protectors Jim Learning, Eldred Davis and Marjorie Flowers. Please include all responsive records between July 26, 2017 and Aug. 8, 2017.		2019-03-15	Justice and Public Safety
HCS/20/2019	Please provide me with the amount of money that was budgeted for each Regional Health Authority for Personal care Home Subsidies and Home Support Subsidies.	Budget	2019-03-15	Health and Community Services
EECD/19/2019[1]	I am requesting any and all correspondence (emails, briefing notes, etc) regarding the removal of the Assistant Director of Education - Programs (Western Region).		2019-03-19	Education and Early Childhood Development
TCII/20/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-19	Tourism, Culture, Industry and Innovation
FLR/15/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-19	Fisheries and Land Resources
FLR/14/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-19	Fisheries and Land Resources
WP/2/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-19	Office for the Status of Women
IIAS/5/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of the "The Way Forward" initiatives.	Messaging	2019-03-19	Intergovernmental and Indigenous Affairs Secretariat
MAE/7/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: Request for Proposal Provision of Consulting Services Phase II and Phase III Environmental Site Assessment and Human Health and Ecological Risk Assessment Work for Former mid Canada Line Military Sites in remote Labrador.	Public procurement	2019-03-19	Municipal Affairs and Environment

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MAE/9/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: RFP-Massey Drive - Lift Station emergency Generators.	Public Procurement	2019-03-19	Municipal Affairs and Environment
TW/27/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-19	Transportation and Works
NR/14/2019	NR report with the title "An Analysis of the Industrial Benefits Made Possible by the Existence of the Atlantic Accord". Date: March 6, 2011 NR file Number: RPT-11:11.		2019-03-19	Natural Resources
NR/15/2019	Any reports or information notes/briefings outlining the benefits of the Atlantic Accord from December 1, 2015 to present.	Briefing notes	2019-03-19	Natural Resources
NR/16/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-19	Natural Resources
JPS/15/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-19	Justice and Public Safety
JPS/17/2019	All emails sent to Min. Parsons since December 2015 to the date of this request, regarding access to abortion in NL, specifically the 2016 Access to Abortion Services Regulations. I am seeking government emails but also emails from the public.	Correspondence	2019-03-19	Justice and Public Safety
JPS/22/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of February 2019.	Briefing notes	2019-03-19	Justice and Public Safety
JPS/25/2019	Please provide the estimate costs associated with the new pilot project for Alternative Measure court process.		2019-03-19	Justice and Public Safety
HCS/24/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-19	Health and Community Services
FIN/16/2019[3]	A list of briefing materials prepared for the deputy minister or the minister for the month of January 2019.	Briefing notes	2019-03-19	Finance
FIN/17/2019	Any reports or information notes/briefings outlining the benefits of the Atlantic Accord from December 1, 2015 to present.		2019-03-19	Finance
FIN/18/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-19	Finance
FIN/19/2019	Revenue forecasting for carbon tax for years 2019, 2020, 2021, 2022, 2023 (if available) I am requesting any documents pertaining this information that are not completely subject to cabinet confidence. Any documents that are subject to cabinet confidence I am still requesting, with the necessary information redacted.		2019-03-19	Finance
EECD/12/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-19	Education and Early Childhood Development
EECD/14/2019	All consultations, reports, memos, briefing notes, and meeting minutes produced by or for the Department of Education and Early Childhood Development concerning any discussions or efforts to amend the department's policies regarding the provincial management and/or public disclosure of all disciplinary actions against primary and secondary school teachers. This request pertains to the timeframe of January 1, 2000, to present day.		2019-03-29	Education and Early Childhood Development
TCH/27/2019	Any and all records, of any nature or medium, which relate to Mabile Labrador Ventures Inc., excluding all information previously provided in response to BTCRD/8/2016, and/or BTCRD/24/2016.		2019-03-29	Tourism, Culture, Industry and Innovation
TCH/24/2019	Re economic development officers provide 1/ the total number on staff in 2018 2/ the work location in NL & the no per location 3/ provide the same info as in 1/ & 2/ for industry development office.		2019-03-29	Tourism, Culture, Industry and Innovation
WP/3/2019[3]	Any emails, reports, or other materials sent from or received by the Minister and/or Deputy Minister from December 2015 to the date of this request regarding the sex trade, prostitution or human trafficking.		2019-03-29	Office for the Status of Women

AESL/17/2019	Please provide the estimated costs associated with the Committee of Experts for Independent Public Post-Secondary Education Review.	Budgetary	2019-03-29	Advanced Education, Skills and Labour
EC/1/2019	Records relating to regional waste management, specifically to seasonal properties, unincorporated areas and local service districts in the Eastern Region of Newfoundland.		2019-03-29	Executive Council
EC/37/2018	All documents including correspondences (including email and letters), slides, notes and memoranda exchanged between any third-party not including the Newfoundland and Labrador Centre for Health Information or the Pharmacy Board of Newfoundland and Labrador and the Executive Council - Cabinet Secretariat respecting the Pharmacy Network.		2019-03-29	Executive Council
EC/40/2018	Please provide any briefing notes, information notes, reports, emails, or any other records which include an evaluation of the current Atlantic Accord Framework and/or Equalization formula conducted since January 1, 2016.		2019-03-29	Executive Council
EC/2/2019	Information relating to matters of automotive insurance rates, claims, reform, and legislation from 16 February 2018 to present.		2019-03-29	Executive Council
EC/35/2018	All documents including correspondences (including email and letters), slides, notes and memoranda exchanged between the Pharmacy Board of Newfoundland and Labrador (or one of its agents, employees or officers) and the Executive Council - Cabinet Secretariat respecting the Pharmacy Network.		2019-03-29	Executive Council
EC/36/2018	All documents including correspondences (including email and letters), slides, notes and memoranda exchanged between the Newfoundland and Labrador Centre for Health Information (or one of its agents, employees or officers) and the Executive Council - Secretariat respecting the Pharmacy Network.		2019-03-29	Executive Council
TW/1/2019	Request disclosure of information on the RFP Ship Broking Services (see RFP below) - specifically award of services, value, and any subsequent information on the disposal of the Captain Earl W. Winsor.		2019-03-29	Transportation and Works
TW/28/2019	Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives.	Messaging	2019-03-29	Transportation and Works
TW/29/2019	ATIPP Request TW-006-2019 contained a redacted letter from MHA Mark Brown to Minister Steve Crocker, dated Nov 29 2018. The letter outlined the MHA's priorities for road work in the district. Please provide an un-redacted copy of this letter.		2019-03-29	Transportation and Works
TW/34/2019	Please provide the tender awarded cost of the Team Gushue Highway, the actual cost paid to contractor at completion, and a list of all change orders, include the reason for change order, and the total cost of change order.	Public procurement	2019-03-29	Transportation and Works
TW/33/2019	A copy of all tenders including all tender submittals (i.e. bid breakouts, schedules, sub-contractor lists, etc.) for the Coleys point primary school. Tendered in December 2018, awarded in February 2019.	Public procurement	2019-03-29	Transportation and Works
NR/40/2019	Has the Department of Natural Resources hired any consultants to study the cost of Electrification of government buildings? If so, please provide the name of the consultant, the value of the contract and a copy of the terms of reference. If there is a report generated please provide a copy of the report. You can limit the search to January 1, 2018 onwards.	Public procurement	2019-03-29	Natural Resources
NR/41/2019	Has the Department of Natural Resources hired any consultants to study the cost of increasing the use of electric vehicles in NL? If so, please provide the name of the consultant, the value of the contract and a copy of the terms of reference. If there is a report generated please provide a copy of the report. You can limit the search to January 1, 2018 onwards.	Public procurement	2019-03-29	Natural Resources
NR/25/2019	Liberty Consulting Group Phase 1 report on MF Information Note from January 2019.	Briefing notes	2019-03-29	Natural Resources
NR/35/2019	Information note from January 2019 re Liberty Consulting Report.	Briefing notes	2019-03-29	Natural Resources
JPS/24/2019	Please provide the cost the annual salary and benefits of the new SIRT director.		2019-03-29	Justice and Public Safety

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EECD/17/2019	January 2019 Decision/Direction Note titled GPS Technology for Student Transportation.	Briefing notes	2019-03-29	Education and Early Childhood Development
EECD/20/2019	A list of briefing materials prepared for the deputy minister or the minister for the month of February 2019.	Briefing notes	2019-03-29	Education and Early Childhood Development
EECD/4/2019	Information notes, decision notes, House of Assembly cards/Q&As/response lines, analyses, and/or other background or briefing materials - in any and all formats, including paper and electronic - related to the 1.6 km school bus regulation. Date range of request is Sept. 1, 2018, to the present.		2019-03-29	Education and Early Childhood Development
TW/38/2019	I would like to obtain all the information on Tender for Rencontre East ferry service. Including any and all bids. Who made the decision and why? Whether or not there was consultation with town council or ferry committee?	Public procurement	2019-04-01	Transportation and Works
TCH/23/2019[1]	All documents and correspondence regarding the reduction of non-residential caribou quotas in CMA 62. Specifically, and without limiting the scope to the foregoing, any documents and correspondence relating to the reduction of Sou'Western Outfitting/Caribou Valley Outfitters non-resident caribou quota.		2019-04-01	Tourism, Culture, Industry and Innovation
MAE/12/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: RFP - Stephenville Crossing - Seal Cove Road Upgrades.	Public procurement	2019-04-01	Municipal Affairs and Environment
MAE/13/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: RFP - Norris Point main Street Water main Upgrade, Phase 3.	Public procurement	2019-04-01	Municipal Affairs and Environment
MAE/14/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: Deer Lake - High Street Water & Sewer Upgrades.	Public procurement	2019-04-01	Municipal Affairs and Environment
MAE/15/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: Lark harbor Water & Sewer Upgrades, Phase 4.	Public procurement	2019-04-01	Municipal Affairs and Environment
MAE/10/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: LSD of Mainland - Water System Improvements Phase 4.	Public procurement	2019-04-01	Municipal Affairs and Environment
MAE/11/2019	1. List of bidders 2. Technical Proposal Responses for all bidders 3. Financial Response for all bidders 4. Evaluations for all bidders 5. Evaluation notes for all bidders for the following: RFP - Isle aux Morts - Water main Replacement & Sewer Upgrades, Phase 2.	Public procurement	2019-04-01	Municipal Affairs and Environment
AESL/12/2019	January 2019 decision note titled Newfoundland and Labrador Provincial Nominee Program (NLNP) and Atlantic Immigration Pilot (AIPP) Program Retention Survey.	Briefing notes	2019-04-01	Advanced Education, Skills and Labour
AESL/13/2019	January 2019 information note titled Emergency Accommodations Budget and Operations.	Briefing notes	2019-04-01	Advanced Education, Skills and Labour
TW/36/2019[1]	I wish to receive all emails and communications that were sent and received from and to the MV Hazel McIsaac on the dates of February 11, 2019 to February 15, 2019 inclusively. Also, I would like to receive the email that was said to have been sent from the Department of Transportation to the Town of Lushes Bight-Beaumont regarding the removal of the ferry from service.	Correspondence	2019-04-01	Transportation and Works
TW/37/2019	Tender package for the Ferry Service for Gaultois. I would like to obtain the information on actual bids considered for the Gaultois Ferry Service. I want information on any and all bids that were submitted for consideration for the Gaultois service. I want to know who made the decision to remove MV Terra Nova from the Gaultois ferry service and was any consultation with the Transportation Committee of Gaultois.	Public procurement	2019-04-01	Transportation and Works
EECD/18/2019	A copy of the following public records from the Department of Education and Early Childhood Development: The number and specific type of sexual misconduct cases, concerning sexual misconduct between teachers and students in all regional school districts in the province.		2019-04-03	Education and Early Childhood Development

FLR/6/2019	Any and all records related to Mr. John Allan or Mr. Glenn Barnes in the crown lands division (Anyone below ADM level). This includes, but is not limited to, text messages, BBMs, hand written notes, emails, calendar requests, etc. The date range is December 1, 2015 to present Day.		2019-04-03	Fisheries and Land Resources
FLR/131/2018[1]	Any and all records concerning Active Energy Group since January 1st, 2017.		2019-04-03	Fisheries and Land Resources
FLR/8/2019	Terms of the contract and quota conditions as it pertains to the timber allocation on the northern peninsula and proposed pellet plant by Timberlands/AEG.	Public procurement	2019-04-03	Fisheries and Land Resources
FLR/5/2019	Any and all records concerning Humber Valley Potato company and provincial government funding/ grants/ assistance since 2004.	Subsidy information	2019-04-03	Fisheries and Land Resources
CSSD/15/2019	A breakdown of spending in the 2017-18 fiscal year of the following line items -- 2.1.01.09 Child and Youth Services (Allowances and Assistance) and 2.1.01.10 Child and Youth Services, (Grants and Subsidies) -- as found on page 139 of the 2017-18 Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund.		2019-04-03	Children, Seniors and Social Development
CSSD/1/2018	All records related to the department's progress in fulfilling the province's commitment to implement the Truth and Reconciliation Commission's Calls to Action -- specifically those calls to action numbered 1, 2, 3 and 5. Please provide all records from Nov. 30, 2015 to Dec. 31, 2017.		2019-04-03	Children, Seniors and Social Development
IIAS/2/2018[1]	All records of any nature, in any medium or format, which relate to the planned Protests and /or Blockades by Quebec Aboriginal groups with asserted claims in Labrador, for the years, 2007, 2010 and 2012.		2019-04-03	Intergovernmental and Indigenous Affairs Secretariat
MAE/33/2018[1]	I am requesting ministerial briefing documents on the planning, building and completion of the Jack Byrne Arena. Furthermore, I am requesting any documents showing the justification for the need for this facility.	Briefing notes	2019-04-03	Municipal Affairs and Environment

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APPENDIX K: DRAFT RECOMMENDED AMENDMENTS

All recommended amendments are subject to revision by legislative counsel for adherence to drafting protocols.

- General amendments throughout Act:
 - Make pronouns gender neutral;
 - Update “Trial Division” references to “Supreme Court”; and
 - Any necessary punctuation and grammar amendments.
- s. 2(a.1): “algorithmic impact assessment” means an assessment that is conducted by a public body as defined under subparagraph (x)(i) to understand and mitigate the risks associated with deploying an automated decision system.
- s. 2(a.2): “automated decision system” means any technology that assists or replaces the judgement of human decision-makers using techniques such as rules-based systems, regression analysis, predictive analytics, machine learning, deep learning, neural nets, and artificial intelligence.
- s. 2(a.3): “biometric information” means information derived from an individual’s unique physical, physiological, or behavioral characteristics;
- s. 2(b): “business day” means any day from Monday to Friday, but does not include holidays or
 - (i) other days on which a public body is not open for business;
 - (ii) for the purposes of section 42 and section 44, other days on which the Office of the Information and Privacy Commissioner is not open for business; and
 - (iii) for the purposes of section 52, section 53, section 54 and section 54.1, other days on which the Trial Division is not open for business.
- s. 2(e.1): “common or integrated program or service” means a program or service that is provided by or delivered by a combination of two or more public bodies or agencies, , but does not include a program or service provided or delivered by one public body or agency as a support service to another public body or agency.
- s. 2(l.1): “Indigenous community” means
 - (a) a band within the meaning of the *Indian Act* (Canada);

(b) an Indigenous organization or community that is negotiating or has negotiated with the Government of Canada or the government of the province on matters relating to,

(i) Aboriginal or treaty rights under section 35 of the *Constitution Act, 1982*,
or

(ii) a treaty, land claim or self-government agreement, and

(c) any other Indigenous organization or community prescribed by the regulations.

- s. 2(u)(i): the individual's name, address or telephone number, but not the individual's business name, address or telephone number,
- s. 2(u)(iii): the individual's age, sex, gender, sexual orientation, marital status or family status,
- s. 2(u)(v): the individual's biometric information, blood type, or inheritable characteristics.
- s. 2(u)(x): the individual's Internet Protocol (IP) address, if it can be used to identify the individual.
- s. 2(w): "privacy impact assessment" means an assessment, that is conducted by a public body to determine if a current or proposed program or service meets or will meet the requirements of Part III of this Act;
- s. 2(x)(v.1): the Auditor General, and
- s. 2(x)(viii): the Court of Appeal of Newfoundland and Labrador, the Supreme Court of Newfoundland and Labrador, or the Provincial Court of Newfoundland and Labrador, or
- s. 2(x)(x): a commission of inquiry established under the *Public Inquiries Act, 2006.*
- s. 4: When the House of Assembly is not in session, the Lieutenant-Governor in Council may by order amend Schedule B, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly.
- s. 5(1)(a): a record in a court file, a record of a judge of the Court of Appeal of Newfoundland and Labrador, Supreme Court of Newfoundland and Labrador, or Provincial Court of Newfoundland and Labrador, a judicial administration record or a record relating to support services provided to the judges of those courts
- s. 5(1)(f): [Repeal]
- s. 5(1)(k): a record relating to a law enforcement investigation if all matters in respect of the investigation have not been completed;

- s. 5(1)(l): a record relating to a law enforcement investigation that would reveal the identity of a confidential source of information or reveal information provided by that source with respect to a law enforcement matter; or
- s. 5(1)(m): a record relating to a law enforcement investigation in which no charge was ever laid, or relating to prosecutorial consideration of that investigation;
- s. 5(1)(n): a record of medical care or treatment provided to an animal, whether for a fee or otherwise, by a public body veterinarian where such care or treatment would otherwise be provided by a non-public body veterinarian if available.
- s. 5(2)(a): does not replace existing procedures for access to records or information normally available to the public, including a requirement to pay fees;
- s. 8(3): The right of access to a record may be subject to the payment, under section 25, of the costs of identifying, locating, retrieving, reviewing, severing, redacting, reproducing, and shipping a record.
- s. 9(1): Where the head of a public body may refuse to disclose information to an applicant under a discretionary exception, that exception shall not apply where it is clearly demonstrated that the public interest in disclosure of the information outweighs the reason for the exception.
- s. 9(2): [Repeal and substitute:] Where the head of a public body must refuse to disclose information to an applicant under section 39 (disclosure harmful to business interests of a third party), that mandatory exception shall not apply where it is clearly demonstrated that the public interest in the disclosure of the information outweighs the reason for the exception.
- s. 9(2.1): Where the head of a public body may or is required to disclose information to an applicant under the *Energy Corporation Act*
the exception relied on shall not apply where it is clearly demonstrated that the public interest in the disclosure of the information outweighs the reason for the exception.
- s. 11(2)(a.1): provide the full legal name and contact information of the applicant.
- s. 11.1 [Title]: Clarifications, Identification Verification, and Abandoned Requests
 - (1) Where an applicant does not provide sufficient details to allow the public body to identify and locate a requested record or the public body otherwise requires clarification of the request, the head of a public body may request such clarification by written notice to the applicant.
 - (2) Where an applicant seeks access to personal information about themselves or seeks a correction of their personal information, the coordinator may request verification of the applicant's identity or proof of authority under section 108.

(3) Where the head of a public body or a coordinator makes a request under subsection (1) or (2) within 5 business days after the receipt of the request, the time within which the head of the public body is required to respond to the request under section 16(1) is suspended until the public body receives the requested clarification or verification.

(4) An applicant shall respond to a request under subsection (1) or (2) within 30 business days after the request is sent to the applicant.

(5) Where an applicant does not respond within the time period set out in subsection (3), the applicant's request is considered to be abandoned.

(6) Where the applicant's request is considered to be abandoned under subsection (4), the head of the public body shall notify the applicant in writing that

(a) the applicant's request is considered to be abandoned because of the applicant's failure to provide the requested clarification or identification; and

(b) that the applicant may submit a new request with the requested clarification or identification.

- s. 12(4): The limitation on disclosure under subsection (1) continues to apply after the final response to the request is sent to the applicant.
- s. 14(1): The head of a public body may, upon notifying the applicant in writing, transfer a request to another public body without delay and not later than 10 business days after receiving it, where it appears that [...]
- s. 15: [Repeal]
- s. 19(1): Where the head of a public body is considering a request for access to a record or part of a record that the head has reason to believe contains information that might be excepted from disclosure under section 39 or 40, the head of the public body may consult with the third party.
- s. 19(5)(c): that the applicant will be given access to the record or part of the record unless the third party, not later than 15 business days after the head of the public body informs the third party of this decision, files a complaint with the commissioner under section 42 or appeals directly to the Trial Division under section 53, and provides the head of the public body with a copy of the complaint or a copy of a notice of appeal; and
- s. 19(7): The head of the public body shall not give access to the record or part of the record until
 - (a) the time period for filing a complaint or an appeal under section 42, 53 or 54, as applicable, has expired and no copy of the complaint or notice of appeal has been provided to the head of the public body pursuant to paragraph 6(c);

(b) the third party has advised the head of the public body in writing that no further recourse under the Act will be pursued; or

(c) a court order has been issued confirming the decision of the public body, or otherwise concluding the appeal.

- s. 20(6): Where an applicant requests a record in a specific form under paragraph 11(2)(c) and the record exists in that form, the head of a public body shall provide the record in the form requested where it is reasonably practicable to do so.
- s. 20(7): Where the head of the public body determines that it is not reasonably practicable to provide the record to the applicant in the form requested under paragraph 11(2)(c), the head of the public body shall, subject to any other exception to access in this Act, provide the record in a different form

(a) agreed upon in consultation with the applicant; or

(b) that does not materially change the information that was originally created, sent or received.

- s. 21(1): The head of a public body may, not later than 10 business days after receiving a request, apply to the commissioner for approval to disregard the request where the head is of the opinion that [...]
- s. 21(1)(a): [Repeal]
- s. 21(3): Where the head of a public body or a coordinator makes an application under subsection (1), the time within which the head of the public body is required to respond to the request under section 16(1) is suspended until the public body receives the commissioner's decision.
- s. 21.1: (1) The head of a public body may, on the written recommendation of the coordinator, disregard a request where

(a) the records or information may be obtained through existing procedures available to any applicant, including a requirement to pay fees; or

(b) the request does not include the information reasonably required to contact the applicant in accordance with section 11(2)(a.1).

(2) Where the head of a public body disregards a request under paragraph (1)(a), the head of the public body shall without delay give written notice to applicant

(a) that the request is refused under subsection 21.1(1)(a) and the reason for the refusal;

(b) instructions on how to obtain the records or information from the existing procedure available to the applicant;

(c) that the applicant may file a complaint with the commissioner under section 42; and

(d) the applicable time limit and instructions on how to pursue a complaint.

(3) Where the head of a public body disregards a request under paragraph (1)(b), the head of the public body shall without delay make every reasonable effort to give written notice to the applicant

(a) that the request is disregarded under subsection 21.1(1)(b) and the reason for the disregard; and

(b) that the applicant may submit a new request with the required contact information.

(4) Where a request is disregarded under subsection (1), the head of a public body shall without delay notify the commissioner in writing that the request is disregarded under subsection (1) and the reasons for the disregard.

- s. 21.2: Vexatious Applicant Declaration

(1) The head of a public body may apply to the commissioner to declare an applicant to be a vexatious applicant where the applicant:

(a) has made unduly repetitive or systematic requests for the same or essentially the same records or information;

(b) has submitted repeated requests in respect of which the head of a public body has disregarded the request under section 21.1(1) or the commissioner has approved a disregard under section 21; or

(c) has otherwise made requests in bad faith.

(2) Where the head of a public body applies to the commissioner under subsection (1), the head of the public body shall give written notice to applicant.

(3) The notice under subsection (2) shall contain the following information:

(a) that the head of the public body has applied to the commissioner declare the applicant to be a vexatious applicant;

(b) reasons that the head of the public body believes the applicant to be a vexatious applicant;

(c) that the applicant may make written submissions to the commissioner regarding the application for a declaration; and

(d) the applicable time limit and instructions on how to make written submissions to the commissioner.

(4) The applicant may make written submissions to the commissioner regarding the declaration within 10 business days after the notice under subsection (2) is sent to the applicant.

(5) The commissioner shall provide a decision within 20 business days after the time period in subsection (4).

(6) Where the commissioner declares an applicant to be a vexatious applicant, the applicant shall not make a request without the written approval of the commissioner, for a period of time that the commissioner considers appropriate.

(7) The commissioner shall give written notice of their decision to the applicant and the head of the public body.

(8) The written notice under subsection (7) shall contain the following information:

(a) the commissioner's decision, the reasons for the decision, and the provision of this Act on which the decision is based;

(b) where the commissioner makes a declaration,

(i) the period of time that the applicant cannot make a request without the written approval of the commissioner;

(ii) instructions on how to apply to make access requests during the period of time that the applicant cannot make requests;

(iii) that the applicant may appeal the declaration to the Trial Division under section 54.1; and

(iv) the applicable time limits and instructions on how to pursue an appeal;

(c) where the commissioner does not make a declaration,

(i) that the head of the public body may appeal to the Trial Division under section 54.1; and

(ii) the applicable time limits and instructions on how to pursue an appeal.

- s. 23.1: (1) Notwithstanding section 23, the head of a public body may, on the written recommendation of the coordinator and not later than 15 days after receiving a request,

extend the time for responding to a request by no more than 10 business days for one or both of the following reasons:

(a) responding within the time limit would unreasonably interfere with the operations of the public body due to the large number of records requested or required to be searched; or

(b) additional time is needed to consult with a third party or other public body before deciding whether to grant access to the record.

(2) Where the time for responding to a request is extended under subsections (1) or (2), the head of a public body shall without delay notify the applicant and the commissioner in writing of

(a) the reason for the extension; and

(b) the length of the extension.

(3) Notwithstanding section 23 and subsections (1) and (2), the head of a public body may, not later than 15 business days after the receipt of a request, extend the time for responding to a request where the applicant consents to extending the time limit.

(4) Where the time for responding to a request is extended under subsection (3), the time may be extended for the number of business days agreed to by the applicant.

(5) Where the time for responding to a request is extended under subsection (3), the head of a public body shall without delay notify the commissioner in writing

(a) of the reason for the extension;

(b) of the length of the extension; and

(c) that the applicant has consented to the extension.

(6) The head of a public body may, not later than 5 business days before the expiration of an extension under subsection (1) or (4), apply to the commissioner for approval of an additional extension of time to respond to a request.

(7) Where the head of a public body applies under subsection (6) for an additional extension of time to respond to a request, section 23 applies with any necessary changes.

- s. 25(1): [Repeal and substitute:] The head of a public body may charge an applicant
- s. 25(1)(a): [Repeal and substitute:] costs for identifying, locating, retrieving, reviewing, severing and redacting a record;
- s. 25(1)(b): costs for copying or printing a record only in excess of 100 pages, where the record is to be provided in hard copy form;
- s. 25(1)(c): the actual cost of reproducing or providing a record that cannot be reproduced or printed on conventional equipment then in use by the public body; and

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- s. 25(1)(d): the actual cost of shipping a record using the method chosen by the applicant.
 - s. 25(2): [Repeal and substitute:] The head of a public body may not charge an applicant under subsection (1) to pay costs for
 - (a) the first 35 hours spent identifying, locating, retrieving, reviewing, severing or redacting a record; or
 - (b) time spent corresponding with the applicant or third parties.
 - s. 25(3): [Repeal]
 - s. 25(4) Notwithstanding subsections (1), (2) and (3), the head of the public body shall not charge an applicant a cost for a service in response to a request for access to the personal information of the applicant.
 - s. 26(1): Where an applicant is to be charged a cost under subsection 25(1), the head of the public body shall give the applicant an estimate of the total cost before providing the services or reproducing or shipping the record.
 - s. 26(5): Where an applicant applies to the commissioner to revise an estimate of costs or to review a decision of the head of the public body not to waive all or part of the costs, the time period of 20 business days referred to in subsection (2) and section 16 is suspended until the application has been considered by the commissioner.
 - s. 27(1)(e): an agenda, minute or other record of Cabinet recording deliberations of the Cabinet;
 - s. 28(1)(c): the substance of deliberations of a privileged meeting of its elected officials or governing body or a committee of its elected officials or governing body.
 - s. 30(2): The head of a public body shall refuse to disclose to an applicant information that is subject to solicitor and client privilege, litigation privilege, or settlement privilege of a person other than a public body.
 - s. 31.1: Information technology security information
 - (1) In this section, "information technology security information" includes but is not limited to
 - (a) information regarding the location of information technology infrastructure, networks, systems, applications, services and data;
 - (b) information regarding security controls of information technology infrastructure, networks, systems, applications, services and data;
 - (c) network addresses;
 - (d) server names;
 - (e) passwords;
-

- (f) user identifiers;
- (g) internet protocol addresses;
- (h) vendor names, technology names and technology versions related to information technology infrastructure, networks, systems, applications and services;
- (i) network, server, and application configurations;
- (j) network diagrams;
- (k) file paths;
- (l) log details and settings; and
- (m) directory structures.

(2) The head of a public body may refuse to disclose to an applicant information technology security information if the disclosure could reasonably be expected to threaten the confidentiality, integrity, security or availability of the public body's information technology infrastructure, networks, systems, applications, services and data.

- s. 32(f): assessing research activities or projects by a health research ethics body authorized under section 9 of the *Health Research Ethics Authority Act, 2006*.
- s. 33: Workplace conduct
- s. 33(1)(b): "party" means a complainant or respondent in a workplace investigation; and
- s. 33(1)(c): "workplace investigation" means an investigation related to
 - (i) the conduct in the workplace of an employee or other person holding a position within the public body,
 - (ii) harassment, or
 - (iii) events related to the interaction of an employee or other person holding a position within the public body with another employee or a member of the public

which may give rise to sanction.

- s. 33(1.1): This section does not apply to inquiries under section 43 of the *House of Assembly Act, 1990* and section 37 of the *House of Assembly Accountability, Integrity and Administration Act, 2007*.
- s. 33(2): The head of a public body shall refuse to disclose to an applicant information created or gathered for the purpose of a workplace investigation.
- s. 33(3): [Repeal and substitute:] Notwithstanding subsection (2) and subject to any other exception to access in this Act, the head of the public body may disclose a final report of a workplace investigation to
 - (a) an applicant who is a party to the workplace investigation; or

(b) an applicant if it is clearly demonstrated that the public interest in the disclosure of the report outweighs any harm that may reasonably be expected to result from the disclosure.

- s. 33(4): [Repeal and substitute:] Notwithstanding subsection (2), the head of a public body shall disclose to an applicant who provided a statement in a workplace investigation the applicant's statement.
- s. 33(5): Notwithstanding subparagraphs (2)(u)(viii) and (ix) and paragraph 40(2)(a), the head of a public body may refuse to disclose information provided in confidence by an individual, including opinions about another individual, which relates to workplace conduct but is not information created or gathered for the purpose of a workplace investigation under subsection (2).
- s. 34(1)(a)(v): an Indigenous community; or
- s. 34(1)(b): reveal information received in confidence from a government, council, organization or community listed in paragraph (a) or their agencies.
- s. 36(b): an endangered, threatened or vulnerable species, sub-species or a population of a species, or any other species, sub-species or a population of a species that the head of a public body has reasonable grounds to believe is in need of protection;
- s. 39(1): The head of a public body shall refuse to disclose to an applicant information that would reveal

(a) trade secrets of a third party; or

(b) commercial, financial, labour relations, scientific or technical information of a third party, the disclosure of which could reasonably be expected to

(i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party;

(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied;

(iii) result in undue financial loss or gain to any person; or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

- s. 39(3): Subsections (1) and (2) do not apply where the third party consents to the disclosure.

- s. 39(4): Subsection (1) does not apply where the information is in a record that has been in existence for 20 years or more.
- s. 40(2)(m): the disclosure is not contrary to the public interest as described in subsection (5) and reveals only the following personal information about a third party: [...]
- s. 41(c): in the case of a statutory office as defined in the *House of Assembly Accountability, Integrity and Administration Act*, records connected with the investigative or audit functions of a statutory office
- s. 41.1: Testing and audit procedures
The head of a public body may refuse to disclose to an applicant information relating to
 - (a) testing or auditing procedures or techniques;
 - (b) details of specific tests to be given or audits to be conducted;
 - (c) standardized tests used by a public body including intelligence tests; or
 - (d) a record of a question that is to be used on an examination or test,if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.
- s. 42(1): A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting the head's decision or failure to comply with a legal obligation under the Act that relates to the request.
- s. 42(2)(a): after the applicant is notified of the decision of the head of the public body;
- s. 42(2)(a.1): after the date that the head of the public body failed to comply with a legal obligation under the Act; or
- s. 42(8)(e): a request that is considered to be abandoned under subsection 11.1(5).
- s. 44(1.1): Where the head of a public body refuses access under section 39, the third party whose interests were considered shall be considered a party to the complaint.
- s. 44(2): The parties to the complaint may, not later than 15 business days after notification of the complaint, make a representation to the commissioner in accordance with section 96.
- s. 44(4): Where the commissioner is unable to informally resolve the complaint within 35 business days of receipt of the complaint, the commissioner shall conduct a formal investigation of the subject matter of the complaint where he or she is satisfied that there are reasonable grounds to do so.

- s. 44(5): Notwithstanding subsection (4), the commissioner may extend the informal resolution process for a maximum of 15 business days where a written request is received from each party to continue the informal resolution process.
- s. 47(b): [Repeal]
- s. 47(e): the head of a public body take such steps are as necessary to comply with an obligation under the Act.
- s. 49(2): [Repeal and substitute:] The written notice shall include notice of the right
 - (a) of an applicant or third party to appeal under section 54 to the Trial Division and of the time limit for an appeal; or
 - (b) of the commissioner to file an order with the Trial Division in one of the circumstances referred to in subsection 51(1).
- s. 49(3): [Repeal and substitute:] Where the head of the public body does not give written notice within the time required by subsection (1), the head of the public body is considered to have agreed to comply with the recommendation of the commissioner.
- s. 49(4): Where the head of a public body is considered to have agreed to comply with a recommendation of the commissioner under subsection (3), the commissioner shall, not later than 15 business days after sending a report to the head of the public body, provide written notice referred to in subsection (2) to the head of the public body and a person who was sent a copy of the report.
- s. 50(1)(c): take steps to comply with an obligation under the Act.
- s. 50(2): Where the head of the public body decides not to comply with a recommendation of the commissioner referred to in subsection (1) in whole or in part, the head shall, not later than 10 business days after receipt of that recommendation, apply ex parte to the Trial Division for a declaration that the public body is not required to comply with that recommendation because [...]
- s. 51(2)(c): take steps to comply with an obligation under the Act.
- s. 51.1: The commissioner as head of a public body
 - (1) Where a request under section 11 is made to the Office of the Information and Privacy Commissioner
 - (a) an application under subsection 23(1), subsection 23.1(6), subsection 24(1) or subsection 26(2) shall be made to the Citizens' Representative appointed the under *Citizens' Representative Act* and section 23, section 23.1, section 24 and section 26 continue to apply with the necessary changes;

(b) an application under subsection 21(1) shall be made to the Trial Division on an ex parte basis, and section 21 applies with the necessary changes; and

(c) an application under subsection 21.2(1) shall be made to the Trial Division and section 21.2 applies, with the exception of paragraphs (3)(c) and (d), subsection (5), subsection (7) and subsection (8), with the necessary changes.

(2) Where the commissioner, as head of the public body, disregards a request under section 21.1

(a) section 42 does not apply;

(b) the applicant may appeal the commissioner's decision directly to the Trial Division under section 52; and

(c) the notice required in subsection 21.1(2) shall apply with the necessary changes.

(3) Where a request under section 11 is made to the Office of the Information and Privacy Commissioner, sections 42 to 51 do not apply and the applicant may appeal a decision of the commissioner to grant or refuse access or a failure to comply with an obligation under the Act directly to the Trial Division under section 52.

- s. 52(1): Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the head's decision that relates to the request directly to the Trial Division.
- s. 52(2)(a): after the applicant is notified of the decision of the head of the public body; or
- s. 52(3): Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision of the head of the public body that relates to the request for access to a record or for correction of personal information.
- s. 54(1): An applicant or a third party may, not later than 10 business days after receipt of a decision of the head of the public body under section 49(1), commence an appeal in the Trial Division of the head's decision to
 - (a) grant or refuse access to the record or part of the record;
 - (b) not make the requested correction to personal information; or
 - (c) not take steps to comply with an obligation under the Act.
- s. 54(2): Where the head of a public body is considered to have agreed to comply with a recommendation of the commissioner under subsection 49(3), an applicant or a third party may, commence an appeal in the Trial Division not later than 10 business days after receipt of notice under subsection 49(4).

- s. 54.1: Appeal of commissioner’s decision respecting a vexatious applicant declaration
 - (1) An applicant or head of a public body may, not later than 10 business days after receiving notification under s. 21.2(8), appeal in the Trial Division the commissioner’s decision respecting a vexatious applicant declaration.
 - (2) Where an applicant or head of a public body appeals a decision of the commissioner under section 21.2, the notice of appeal shall name the head of the public body involved or the applicant as the respondent.
- s. 55(d): requests that are deemed abandoned; or
- s. 55(e): a decision under paragraph 49(d) to not make a recommended improvement to access.
- s. 56(4)(b): the head’s decision or failure to comply with a legal obligation under the Act in respect of which the commissioner has refused under section 45 to investigate a complaint.
- s. 56(6): Where an appeal is brought by a third party, the head of the public body shall give to the applicant written notice of the appeal and instructions on how to intervene as a party to the appeal.
- s. 57: (1) The practice and procedure under the *Rules of the Supreme Court, 1986* providing for an expedited trial, or such adaption of those rules as the court or judge considers appropriate in the circumstances, shall apply to the appeal.
 - (2) Unless otherwise ordered, an appeal shall be subject to case management under Rule 18A.06 of the *Rules of the Supreme Court, 1986* and the first step in the proceeding following the filing of the notice of appeal shall be a case management meeting.
- s. 59(1): The Trial Division shall, as a new matter, review the decision of the head of a public body to grant or refuse access to a record, not make a correction of personal information, or not take steps to comply with an obligation under the Act and may receive evidence by affidavit.
- s. 60(1)(d): Where it determines that the head has failed to comply with an obligation under the Act, make an order that the court considers appropriate.
- s. 60(4): Where the Trial Division determines that an applicant is or is not a vexatious applicant under section 21.2(1), the court may make an order that the court considers appropriate.
- s. 64(3)(d): collected by, disclosed to, accessed by or used by an unauthorized person.
- s. 64(3.1): Subsection (3) does not apply

(a) where the head of the public body reasonably believes that the breach does not create a risk of significant harm to the individual who is the subject of the information; or

(b) in compelling circumstances where there is a risk of significant harm to the health and safety of another person.

- s. 64(4): Where the head of a public body reasonably believes that there has been a breach involving one or more of the circumstances listed in subsection (3), the head shall inform the commissioner of

(a) the breach; and

(b) whether the head has notified the individual who is the subject of the information.

- s. 64(5): Notwithstanding a circumstance where, under subsection (3.1), notification of an individual by the head of a public body is not required, the commissioner may recommend that the head of the public body, at the first reasonable opportunity, notify the individual who is the subject of the information.

- s. 64(7): [Repeal]

- s. 66(1)(c): for a purpose for which that information may be disclosed to or by that public body under sections 68 to 71.

- s. 67(1): Notwithstanding section 66, a post-secondary educational body may, in accordance this section, use personal information in its alumni records for the purpose of its own fundraising, outreach or engagement activities where that personal information is reasonably necessary for the fundraising, outreach or engagement purposes.

- s. 67(2): In order to use personal information in its alumni records for the purpose of its own fundraising, outreach or engagement activities, a post-secondary educational body shall,

(a) whenever the individual to whom the personal information relates is contacted for the purposes of fundraising, outreach or engagement, give notice of the individual's right to request that the individual's personal information cease to be used for fundraising, outreach or engagement purposes;

(b) [Repeal]

(c) periodically and in a manner that is likely to come to the attention of individuals who may be solicited for fundraising, outreach or engagement, publish in an alumni magazine or other publication, a notice of the individual's right to request that the individual's personal information cease to be used for fundraising, outreach or engagement purposes.

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- s. 68(1)(p): where the head of the public body determines that compelling circumstances exist that affect a person's health or safety and where notice of disclosure, if appropriate, is given to the individual the information is about;
 - s. 68(1)(v): to the surviving spouse or relative of a deceased individual where the head of the public body considers it appropriate under the circumstances.
 - s. 68(1)(x): if the personal information is information of a type routinely disclosed in a business or professional context and the disclosure
 - (i) is limited to an individual's name and business contact information, including business title, address, telephone number, facsimile number and e-mail address, and
 - (ii) does not reveal other personal information about the individual or personal information about another individual.
 - s. 72(1): A minister shall, during the development of a program or service by a department or branch of the executive government of the province as defined under subparagraph 2(x)(i), submit to the minister responsible for this Act [...]
 - s. 72.1: (1) The head of a public body other than a public body defined under subparagraph 2(x)(i), shall, during the development of a program or service by the public body, conduct a
 - (a) privacy impact assessment; or
 - (b) preliminary assessment where a privacy impact assessment of the program or service is not required.

(2) Where the head of a public body conducts a privacy impact assessment or preliminary assessment respecting a program or service or a common or integrated program or service for which disclosure of personal information may be permitted under paragraph 68(1)(u), the head may submit the assessment to the commissioner for the commissioner's review and comment.
 - s. 72.2: Information practices, policies and procedures
 - (1) A public body that has custody or control of personal information shall establish and implement information policies and procedures to facilitate the implementation of, and ensure compliance with, this Act and the regulations respecting the manner of collection, storage, transfer, copying, modification, use and disposition of personal information whether within or outside the province.
 - (2) The information policies and procedures referred to in subsection (1) shall include policies and procedures to
-

(a) protect the confidentiality of personal information that is in its custody or under its control and the privacy of the individual who is the subject of that information;

(b) restrict access to an individual's personal information by an employee, agent, contractor or volunteer of the public body to only that information that the employee, agent, contractor, or volunteer requires to carry out the purpose for which the information was collected or will be used;

(c) protect the confidentiality of personal information that will be stored or used in a jurisdiction outside the province or that is to be disclosed by the public body to a person in another jurisdiction and the privacy of the individual who is the subject of that information; and

(d) provide for the secure storage, retention and disposal of records to minimize the risk of unauthorized access to or disclosure of personal information.

(3) The information policies and procedures referred to in subsection (1) shall include appropriate measures to address the risks associated with the storage of personal information, taking into account the manner and form in which the personal information is recorded, the location of storage and the degree of sensitivity of the personal information to be protected.

- s. 72.3: Automated decision system and algorithmic impact assessment

(1) The head of a public body shall, at an early stage of developing a program or service involving the use of one or more automated decisions systems, conduct an algorithmic impact assessment.

(2) The head of a public body under section 2(x)(i) shall notify the commissioner of a program or service involving the use of one or more automated decision systems at an early stage of developing the program or service.

(3) Where the commissioner receives notification under subsection (1), the commissioner may recommend that the head of the public body submit to the commissioner the algorithmic impact assessment for the commissioner's review and comment.

(4) Where a public body uses an automated decision system, the head of the public body shall ensure that an appropriate system is in place within the public body for creating and maintaining information that is an adequate record of the decisions from the automated decision system.

- s. 73: (1) [Repeal and substitute:] A person or group who believes on reasonable grounds that personal information has been or will be collected, used or disclosed by a public body in contravention of this Act, may file a privacy complaint with the commissioner.

- s. 73(2): [Repeal]

- s. 73(4)(a): one year after the subject matter of the privacy complaint first came to the attention of or should reasonably have come to the attention of the complainant or complainants; or
- s. 73(6): A complainant who has filed a privacy complaint with the commissioner may request that their identity not be shared with the public body that is subject of the complaint.
- s. 73(7): Where a complainant has made a request under subsection (6) and the commissioner reasonably believes that the identity of the complainant is not necessary for the investigation of the complaint, the commissioner may accept the complaint and take such steps as the commissioner considers appropriate to protect the identity of the complainant.
- s. 73(8): Where a complaint is accepted under subsection (7), paragraphs 78(1)(b) and 79(1)(b) do not apply with respect to the complainant and the commissioner shall, without delay, provide the complainant with any notice or application received in relation to the complaint.
- s. 79(1)(a): apply ex parte to the Trial Division for a declaration that the public body is not required to comply with that recommendation because the collection, use or disclosure of the personal information is not in contravention of this Act, and
- s. 83(1): The Trial Division shall review the head's act or failure to comply with an obligation under the Act that relates to the collection, use or disclosure of personal information under this Act as a new matter and may receive evidence by affidavit.
- s. 85(5): The selection committee shall submit from the roster the names of no more than three recommended candidates to the Speaker of the House of Assembly.
- s. 85(6): The Speaker shall consult with the Premier, the Leader of the Official Opposition and the leader or member of a registered political party that is represented on the House of Assembly Management Commission.
- s. 85(7): The government House Leader shall cause to be placed before the House of Assembly a resolution to appoint as commissioner one of the individuals named by the selection committee.
- s. 95(1)(f): comment on the implications for protection of privacy and other ethical implications of programs or services involving the use of one or more automated decision systems;
- s. 95(1)(g): monitor the use of automated decision systems by public bodies and developments in the field of automated decision systems and make recommendations to the head of a public body or the minister responsible for the Act about legislative or other steps that the commissioner considers necessary in relation to the purposes of the Act;

- s. 95(1)(h): monitor compliance with section 72.1, section 72.2 and section 111.1 and make recommendations for improvement.
- s. 95(1)(i): review the publication scheme or proactive disclosure of a public body and make recommendations for improvement.
- s. 97(1)(a): paragraph 5 (1)(c), (d), (e), (g), (h), (i) or (n);
- s. 97(1)(d): solicitor-client privilege or a privilege under the law of evidence.
- s. 97(3.1): Notwithstanding subsection (3), the commissioner
 - (a) may require the production of a record over which solicitor-client privilege is claimed only where the production is absolutely necessary for a fair assessment by the commissioner of whether the privilege is properly claimed; and
 - (b) may not require the production of a record over which solicitor-client privilege is claimed where the record contains advice given in the context of a complaint or related litigation.
- s. 98: (1) This section applies to a record notwithstanding
 - (a) paragraph 5 (1)(c), (d), (e), (g), (h), (i) or (n);
 - (b) subsection 7 (2);
 - (c) another Act or regulation; or
 - (d) a privilege under the law of evidence.

(2) The commissioner has the right

 - (a) to enter an office of a public body and examine and make copies of a record in the custody of the public body; and
 - (b) to converse in private with an officer or employee of the public body.

(3) Notwithstanding subsection (2), the commissioner may not, on entry of an office of a public body, examine or make copies of a record over which solicitor-client privilege is claimed.
- s. 99(3): Subsection (2) does not apply in a prosecution for perjury or for an offence under this Act.
- s. 101: [Repeal]
- s. 103.1: (1) The commissioner shall designate an individual from among the employees of the office of the commissioner who shall have the powers and duties of the commissioner if the commissioner is absent or unable to fulfill the duties of the commissioner's office or if the office becomes vacant.

(2) A designation under subsection (1) may be revoked by the commissioner.

(3) A designation under subsection (1) or a revocation under subsection (2) shall be in writing to the speaker.

(4) The individual designated under subsection (1) shall have the powers and duties of the commissioner until the designation is revoked or a commissioner appointed under either section 85 or section 89 of the Act.

(5) In consultation with the House of Assembly Management Commission, the Lieutenant-Governor in Council may increase the salary of an individual who assumes the powers and duties of a commissioner under subsection (1) in such circumstances as the Lieutenant-Governor in Council considers appropriate.

(6) Section 88 applies in respect of an individual who assumes the powers and duties of the commissioner under subsection (1).

- s. 109: (1) A local public body shall, by by-law, resolution or other instrument, designate a person on the staff of the local public body as the head of the public body for the purpose of this Act, and once designated, the local public body shall advise the minister responsible for this Act of the designation.

(2) A local government body or group of local government bodies shall

(a) by by-law, resolution or other instrument, designate a person for the purpose of this Act, as the head of an unincorporated entity owned by or created for the local government body or group of local government bodies; and

(b) advise the minister responsible for this Act of the designation.

(3) Notwithstanding subsection (1), in exceptional circumstances and with the approval of the commissioner, a local public body may designate a person not on the staff of the local public body as the head of the public body for the purpose of this Act and once designated, the local public body shall advise the minister responsible for this Act of the designation.

(4) A person designated under subsection (3) shall serve as the head of the public body for a term of one year, but may be renewed for additional terms with the approval of the commissioner.

- s. 110(3): Notwithstanding subsection (1), in exceptional circumstances and with the approval of the commissioner, the head of a local public body may designate a person not on the staff of the local public body to be coordinator and the provisions of this Act shall apply as if the coordinator were on the staff of the local public body.
- s. 110(4): A person designated under subsection (3) shall serve as coordinator for a term of one year, but may be renewed for additional terms with the approval of the commissioner.

- s. 111: (1) [Repeal]
 - (2) [Repeal]
 - (3) The head of a public body shall publish information including,
 - (a) a description of the mandate and functions of the public body and its components;
 - (b) a description and list of the records in the custody or under the control of the public body, including personal information banks;
 - (c) the name, title, business address and business telephone number of the head and coordinator of the public body; and
 - (d) a description of the manuals used by employees of the public body in administering or carrying out the programs and activities of the public body.
 - (4) The published information shall include for each personal information bank maintained by a public body
 - (a) its name and location;
 - (b) a description of the kind of personal information and the categories of individuals whose personal information is included;
 - (c) the authority and purposes for collecting the personal information;
 - (d) the purposes for which the personal information is used or disclosed; and
 - (e) the categories of persons who use the personal information or to whom it is disclosed.
 - (5) Where personal information is used or disclosed by a public body for a purpose that is not included in the information published under subsection (2), the head of the public body shall
 - (a) keep a record of the purpose and either attach or link the record to the personal information; and
 - (b) update the published information to include that purpose.
 - (6) [Repeal]
 - (7) The head of a public body shall review and update the publication scheme at least every 2 years.
 - (8) This section or a subsection of this section shall apply to all public bodies, except

- (a) local government bodies other than the City of Corner Brook, the City of Mount Pearl, and the City of St. John's; and
- (b) public bodies listed in the regulations.

- s. 111.1: Proactive Disclosure

(1) In this section, "publish" means to make easily accessible on a government website without a request for access under this Act.

(2) The head of a public body shall

- (a) establish and publish categories of records that will be published routinely,
- (b) publish the records in the list of categories established under section (2)(a),
and
- (c) make every reasonable effort to continually increase the number of records useful to the public that are published.

(3) Records published under subsection (2) shall be subject to the same exceptions and redactions made under part II, division 2 of this Act.

(4) Where a type of record is frequently requested under this Act, a coordinator may suggest in writing to the head of a public body that it be added as a category under paragraph (2)(a).

(5) The categories under paragraph (2)(a) shall include

- (a) ministerial briefing notes,
- (b) travel and hospitality expense reports of ministers, deputy ministers and assistant deputy ministers,
- (c) records listed in subsection 29(2)(b) to (k), and
- (d) other categories of records listed in the regulations.

(6) This section shall not apply to local public bodies.

- s. 116(f): [Repeal]

- Schedule A:

(f) [Repeal]

(h) [Repeal]

(i) [Repeal]

(o.1) section 28 of the *Public Inquiries Act, 2006*.

(t) [Repeal]

Draft Amendments to the *Energy Corporation Act, Oil and Gas Corporation Act, and Innovation and Business Investment Corporation Act.*

Energy Corporation Act

- s. 2(b.1): "commercially sensitive information" means information relating to the business affairs or activities in pursuit of the activities set out in paragraph 5(1)(b) of the Act of the corporation or a subsidiary, or of a third party provided to the corporation or the subsidiary by the third party, and includes, in relation to those activities [...]
- s. 5.4(2): [Repeal and substitute:]

Where an applicant makes a request for information that the chief executive officer considers to be commercially sensitive information, the request is considered for all purposes to be a request under section 11 of the *Access to Information and Protection of Privacy Act, 2015*, and the provisions of that Act shall apply to all matters relating to the request, including the right to make a complaint under section 42, the obligation to apply for a declaration under section 50, and the right to appeal under section 52, section 53 or section 54.

- s. 5.4(3): [Repeal and substitute:]

Where

(a) a person files a complaint under section 42 of the *Access to Information and Protection of Privacy Act, 2015*;

(b) a person appeals under section 52, section 53, or section 54 of the *Access to Information and Protection of Privacy Act, 2015* in respect of a decision of the chief executive officer to grant or refuse access; or

(c) the corporation or subsidiary or another public body applies for a declaration under section 50 of the *Access to Information and Protection of Privacy Act, 2015*;

the complaint, appeal, or application for declaration is considered to be in respect of a decision under subsection (1).

Oil and Gas Corporation Act

- s. 23(2): [Repeal and substitute:]

Where an applicant makes a request for information that the chief executive officer considers to be commercially sensitive information, the request is considered for all purposes to be a request under section 11 of the *Access to Information and Protection of Privacy Act, 2015*, and the provisions of that Act shall apply to all matters relating to the request, including the right to make a complaint under section 42, the obligation to apply for a declaration under section 50, and the right to appeal under section 52, section 53 or section 54.

- s. 23(3): [Repeal and substitute:]

Where

(a) a person files a complaint under section 42 of the *Access to Information and Protection of Privacy Act, 2015*;

(b) a person appeals under section 52, section 53 or section 54 of the *Access to Information and Protection of Privacy Act, 2015* in respect of a decision of the chief executive officer to grant or refuse access; or

(c) the corporation or subsidiary or another public body applies for a declaration under section 50 of the *Access to Information and Protection of Privacy Act, 2015*;

the complaint, appeal, or application for declaration is considered to be in respect of a decision under subsection (1).

Innovation and Business Investment Corporation Act

- s. 21(2): [Repeal and substitute:]

Where an applicant makes a request for information that the chief executive officer considers to be commercially sensitive information, the request is considered for all purposes to be a request under section 11 of the *Access to Information and Protection of Privacy Act, 2015*, and the provisions of that Act shall apply to all matters relating to the request, including the right to make a complaint under section 42, the obligation to apply for a declaration under section 50, and the right to appeal under section 52, section 53 or section 54.

- s. 21(3): [Repeal and substitute:]

Where

(a) a person files a complaint under section 42 of the *Access to Information and Protection of Privacy Act, 2015*;

(b) a person appeals under section 52, section 53 or section 54 of the *Access to Information and Protection of Privacy Act, 2015* in respect of a decision of the chief executive officer to grant or refuse access; or

(c) the corporation or subsidiary or another public body applies for a declaration under section 50 of the *Access to Information and Protection of Privacy Act, 2015*;

the complaint, appeal, or application for declaration is considered to be in respect of a decision under subsection (1).

APPENDIX L: STATUTORY REVIEW COMMITTEE STAFF AND SUPPORT SERVICES**Committee Chair**

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