

Submission to the Statutory Review of ATIPPA, 2015

Conducted by Keri-Lynn Power

Submission 2 of Multiple — A Systemic ATIPPA Bypass Confirmed in Writing by the OIPC, and the Decision Not to Report It

August 20, 2026

Submitted by:

David Hanrahan

Executive Summary

This submission identifies four structural gaps in ATIPPA, 2015 revealed by OIPC complaint file 0005-156-25-002 against the Department of Families and Affordability, now the Department of Social Supports and Well-Being. It proposes seven legislative amendments, with one alternative offered in case the Committee considers the first too restrictive. It does not ask this Committee to reopen or alter any complaint outcome. Every amendment is forward looking.

The core sequence. I filed a formal access request for my own Income Support file. The Department's Senior ATIPP Coordinator forwarded it to Income Support Enquiries — the same division that had been refusing me informally for a month — and later confirmed in writing that Income Support files are provided outside the ATIPP process as an informal disclosure, and that this was the Department's internal process. When I refused, I was told that informal disclosure “does not limit your ability to appeal to the OIPC,” which is not correct under this Act. The Department did not change course when I refused, or when I said I would complain. It changed course after I filed. Approximately 600 pages arrived five days after the complaint was filed and after the statutory deadline had passed, and the Department's formal response letter, with a further 38 pages including the 18 pages of payment history I most needed, followed twelve days after the complaint.

What the OIPC confirmed, and what it did. The formal closure letter states that for many years the Department transferred Income Support requests directly to a division that “created its own guidelines, such as not providing formal responses.” That is a confirmed multi-year failure to comply with an obligation under the Act, affecting an entire population of applicants. The Office declined to issue a public report. The analyst's stated reason was that a report “would just be antagonistic.” The Commissioner personally approved the closure. The affected population was never told.

The four gaps.

1. **Unrestricted discretion over public reports.** Nothing in the Act requires a report where a systemic failure to comply has been confirmed. The file can be closed on a private commitment.

2. **No prohibition on informal bypass.** Nothing prevents a department routing statutory requests through an informal channel, and nothing requires applicants to be told what protections they lose by accepting one.
3. **Adequacy measured by volume, not by the initial response.** A public body that omits the most important records and supplies them only after a complaint can still be found to have responded adequately.
4. **Nothing follows a closure.** The notice closing my complaint named the wrong public body and bore a date three days before it was delivered. No review of a closure exists short of the Supreme Court. And the applicants affected by the failure this Office had just confirmed were never told, nor is there any provision under which they could have been.

What I ask. That the Committee consider the seven amendments below, and in particular that Section 45 be amended so that a confirmed systemic failure to comply with the Act cannot be closed without a public report, and so that concern for the working relationship between the Office and a public body is not a lawful factor in that decision.

Purpose of This Submission

This submission identifies four structural gaps in ATIPPA, 2015 revealed by my experience with OIPC complaint file 0005-156-25-002. The complaint concerned a multi-year practice of routing Income Support access requests through an unauthorized internal process outside the statutory framework of the Act. The OIPC confirmed the violation in writing but declined to issue a public report. When I challenged that decision, OIPC management confirmed that the Commissioner personally approved the closure and provided an institutional justification that this submission respectfully challenges. The exchange is documented below and reproduced in the annexes.

This is the second of multiple separate submissions I am providing to this review. It is offered as empirical evidence, not as an appeal. It does not ask this Committee or the Independent Reviewer to revisit, reopen or alter the outcome of any complaint or proceeding. Every proposed amendment is forward looking.

The population most affected by the gaps described below is Income Support recipients, who are among the most economically vulnerable people in this province and the least likely to understand or to be in a position to defend their access to information rights. I was able to insist on formal processing because I knew the Act. That is the point of this submission: the system worked for me only because I knew enough to make it work, and it did not work for anyone who did not.

Chronology

Date	Event
August 1, 2025	Access request filed with the Department of Families and Affordability for my complete Income Support file.
August 13, 2025, 12:41 PM	Having received nothing from the Department and unable to find a contact for

Date	Event
	its ATIPP office, I am copied on an email from the Department of Finance ATIPP office asking the Department to confirm the request was received.
August 13, 2025, 2:05 PM	Senior ATIPP Coordinator confirms the request was forwarded to Income Support Enquiries and apologises for not notifying me of the transfer. Twelve business days had elapsed since filing.
August 29, 2025	The 20 business day period under Section 16 expires. No decision and no notice of extension is given.
September 4, 2025	Coordinator advises that approximately 600 pages have been compiled and that "Income support files are provided outside of the ATIPP process as an informal disclosure." I decline informal release the same afternoon.
September 5, 2025	I state that the request is in deemed refusal and that I will complain to the OIPC. The Coordinator replies that it is "our internal process" to provide all income support records as an informal disclosure, and that this "does not limit your ability to appeal to the OIPC."
September 5, 2025, 7:32 PM	Complaint filed with the OIPC.
September 10, 2025, 2:27 PM	Approximately 590 pages are produced, five days after the complaint was filed and after the Section 16 period had expired. The covering email cites Section 40 and sets out review and appeal rights, but does not state whether this is a response under the Act. The payment history is not included.
September 10, 2025, 8:07 PM	I ask the Coordinator to confirm whether this is the Department's formal response or an informal disclosure, and request a formal response letter.
September 16, 2025	The OIPC analyst advises that the Department acknowledges the request was not handled as it should have been.
September 17, 2025	The Department issues its formal response letter with a further 38 pages, including the 18 pages of payment history.

Date	Event
October 2025	OIPC analyst makes first contact and states the Office would “prefer not to release reports if we can get the parties to agree on a resolution.”
December 2, 2025	Section 45 closure letter confirms the multi-year bypass, declines a report, and misidentifies the public body in the notice of appeal rights.
December 5, 2025, 4:15 PM	The letter is delivered by email, copied to the Department’s Senior ATIPP Coordinator.
December 2025	I request supervisory review by the Commissioner. Senior Access and Privacy Analyst confirms all Section 45 closures are made with the Commissioner’s approval and that the Commissioner had considered the issues before closing.

Background — The Documented Exchange

The Substantive Dispute Behind the Access Request

I was requesting my Income Support records from the Department of Social Supports and Well-Being because I needed to understand whether an alleged debt from 2007, almost 20 years old, was statute barred at the time it was referred to the Canada Revenue Agency for set-off in 2025 by the Government Services Collections Division, and to understand the basis on which that referral was made. I had no access to my own file. I did not know the original overpayment calculation, the relevant dates, or what internal process if any had been followed before the CRA referral was made. When I contacted the Department directly I was stonewalled and refused access to a manager. I filed a formal ATIPP request for my complete file including payment records.

What I discovered through a later separate ATIPP request confirmed my concern. Through GS-124-2025 filed with Government Services seeking internal communications about statute-barred Income Support overpayment debts, the records disclosed at page 46 included an April 2023 email from Gina Smith Director of Collections at Government Services to Cynthia King Director of Income Support at CSSD. In that email the Director of Collections wrote the following.

*We frequently receive new accounts to initiate collection activity that are passed the limitation period of 6 years. In some cases the balance may only be partly statute barred if there are multiple overpayments that make up the balance. **We need direction on these accounts urgently.** It has been our practice to write-off the statute barred portion and proceed with collection activity on the rest.*

Does anyone at CSSD review files for limitations issues before they are transferred to collections? Is anyone responsible for writing off statute barred accounts when the overpayments are over 6 years? These type of accounts are mostly clients that switch from Income Support to a pension but there are others as well.

The Director of Collections signed the April 2023 email as Gina Smith and signed her 2025 response to me as Gina Pope. I understand these to be the same individual holding the same position, and I refer to her throughout as the Director of Collections.

This email effectively describes my account. The Director of Collections was clearly stating that these accounts are statute barred in her view and was urgently asking why they were not being written off before being sent to Collections.

I subsequently filed ATIPP request SSWB-035-2026 seeking the response from Cynthia King to that urgent email. The Department's response reviewed and approved by the Deputy Minister stated the department has no responsive records and that the department has no record of the referenced email nor does it hold any records in relation to that specific inquiry. Rather than addressing the search the Department provided an unsolicited legal interpretation about five percent garnishments that made no reference to the Limitations Act or section 17. This appears to be a sensitive subject within the government. The Director of Collections was clearly trying to understand why these accounts were not being written off before transfer and received no documented response.

The Auditor General's report on the province's 2023 financial statement audits noted that as of March 31 2023 there were 7,765 cases categorized as recommended for final write-off that had yet to be written off, and that over a six year period government had deemed that between 55 and 60 percent of income support receivables are not collectable.

Prior to any of the above ATIPP requests I asked the Director of Collections of Government Services directly why my debt was not statute barred and provided my legal reasoning. She responded as follows.

Mr. Hanrahan, the questions and concerns you have about the statute barred issues you raise below are related to when your file was with Income Support, prior to Collections Services becoming involved and should be addressed to them for clarification. Collections Services operates under the premise that debts are collectible when assigned and we act accordingly. Gina Pope, Director of Collections.

That email is reproduced with its full header at Annex E.

The internal and external admissions of the Director of Collections Gina Pope explicitly prove that these uncollectable files are being processed anyway. On April 26 2023 the Director issued an urgent internal warning that her own division frequently receives new accounts past the limitation period and needs direction urgently. Yet when I formally challenged how my own 2007 debt had been referred to the CRA in 2025 by the Government Services Collections Division, the very division she oversees, the same Director deflected accountability by stating that her division blindly operates on a premise of absolute validity and that any concerns about the limitation period should be directed to Income Support. Those two positions from the same person about the same division are in direct contradiction.

I filed my formal ATIPP request to the Department of Social Supports and Well-Being in August 2025 because I had just been told by the Director of Collections that my legal concerns about the debt would not be addressed by Collections and should be directed to Income Support. I needed my own file to understand the basis of the debt and to challenge a referral that I believed was unlawful. The FAMA ATIPP bypass that is the subject of this submission is what happened when I tried to get it. Whether or not that bypass was intended to shield sensitive collection practices from scrutiny its practical effect was to delay my ability to understand and challenge a potentially unlawful debt referral.

What I Requested and What Happened

On August 1 2025 I submitted an access request to the Department of Families and Affordability for all records relating to my Income Support file including overpayment records, CRA set-off referral documentation, payment arrangement history, communication between staff and other departments, and appeal or review options. The payment history records were the most important records in my request. I had been trying to obtain them through informal requests for over a month before filing formally. The Department had been stonewalling me throughout that period.

By August 13 2025 I had received nothing at all from the Department. No acknowledgement, no advisory response, no contact of any kind. I could not locate contact information for the Department's own ATIPP office. The only ATIPP coordinator whose contact information I was able to find anywhere was at the Department of Finance, and I approached her. At 12:41 PM on August 13 2025 she wrote to the Department of Families and Affordability on my behalf and copied me:

Can you confirm that a request from David Hanrahan was received on August 1st, 2025? I have cc'd the applicant—they are looking for an update on the status of this request as no acknowledgement letter has been received to date.

The Department's first communication with me arrived 84 minutes later, at 2:05 PM, twelve business days after my request was filed. It was from the Senior ATIPP Coordinator, Trista Camizzi, and it read as follows.

Your request was forwarded to Income Support Enquiries. I have copied Jeff Hart, he should be able to provide an update. I apologize; I should have notified you of the transfer.

Two features of that sequence are worth the Committee's attention before anything else in this file is considered.

The first is that the Department's initial contact with an applicant occurred only because a coordinator at a different department wrote to it on his behalf. Had I not thought to approach another department's ATIPP office, I do not know when the Department would have contacted me, or whether it would have.

The second is what that contact said. It documents the first step in the sequence that produced the unauthorized informal process. The ATIPP Coordinator forwarded my formal ATIPP request to Income Support Enquiries rather than processing it as a formal ATIPP request. Income Support Enquiries was the same division that had been stonewalling me through

informal requests for over a month. My formal statutory rights were immediately redirected back into the informal channel I had filed formally to escape. The Coordinator apologised for not notifying me of the transfer sooner but did not acknowledge that the transfer itself was improper. Twelve business days had elapsed since my request was filed without any notification that it had been redirected away from formal ATIPP processing.

The same Coordinator who redirected my formal request to Income Support Enquiries subsequently told me the following when I followed up again.

Your file has been compiled and there are approximately 600 pages of records. These records are currently being reviewed for any third-party personal information. We will provide them as quickly as we can. Income support files are provided outside of the ATIPP process as an informal disclosure.

That response is the Department's own ATIPP Coordinator confirming in writing that Income Support files are handled outside ATIPPA as institutional policy. The same Coordinator who redirected my formal request to another division then described the practice as the Department's own, rather than as an individual error. The words it is our internal process appear explicitly in her follow up response when I challenged this position.

I refused the informal process and wrote back as follows.

I will not accept any informal disclosure as a substitute for my formal ATIPP request. My request must be processed fully under ATIPP. If I do not receive confirmation today that my request will be processed under ATIPP in full compliance with the Act, I will have no choice but to immediately file a complaint with the Office of the Information and Privacy Commissioner.

The Coordinator then responded as follows.

It is our internal process to provide all income support records as an informal disclosure. This does not limit your ability to appeal to the OIPC nor does it change the way the records are redacted.

That response is legally incorrect under ATIPPA, 2015. An informal disclosure does limit the applicant's ability to appeal to the OIPC. It removes the right to a formal written decision. It removes the right to have exemptions formally justified. It removes statutory deadlines and appeal rights. The statement that informal disclosure does not limit your ability to appeal to the OIPC is incorrect under ATIPPA, 2015, and it was made in writing to an applicant who had already insisted on formal processing.

The Department did not change course when I refused informal disclosure, and it did not change course when I said I would complain. It changed course after I filed. The complaint went to the OIPC at 7:32 PM on September 5 2025. Approximately 600 pages arrived on September 10. On September 16 the OIPC analyst advised me that the Department had acknowledged to his Office that my request had not been handled as it should have been, and the Department's formal response letter, together with a further 38 pages, followed on September 17.

The entire formal treatment of my request therefore took place after the oversight body was involved. That sequence is the clearest possible evidence that the system worked only because a citizen knew their rights, asserted them, and then engaged the oversight process when assertion alone produced nothing. Every Income Support recipient who did not know their rights went through the informal process without question and without knowing what they had waived.

Even after the formal process was reluctantly initiated the most important records in my request were still omitted. The 18 pages of payment history that I specifically needed to understand the debt being collected from me were not included in the initial 600 page package. I received them only after I filed an OIPC complaint. The formal ATIPP process that was supposed to protect me from the stonewalling was routed by the ATIPP Coordinator back to the very Income Support Division that had been stonewalling me. And even after that routing the payment history records were missing until a complaint forced their production.

During the investigation the OIPC confirmed the following in its formal Section 45 closure letter.

For many years, the Department was transferring requests related to income support directly to the Income Support Division, which would not follow the procedure set forth in ATIPPA, 2015. Income Support Division created its own guidelines, such as not providing formal responses, which affected your access application.

Three words in that confirmation deserve particular attention. Its own guidelines. The Income Support Division did not simply make an administrative error. It created its own alternative guidelines that replaced the statutory requirements of ATIPPA, 2015. That is a failure to comply with an obligation under the Act. The closure letter also confirmed the records were eventually provided ten days after the ATIPPA statutory deadline even after the unauthorized process was corrected.

What the OIPC Investigator Said During the Investigation

Before the formal closure letter was issued the OIPC analyst communicated with me by email throughout the investigation. The following exchanges document precisely how the OIPC approached the confirmed systemic violation.

After submitting my complaint to the OIPC on September 5 2025 along with all communications and screenshots documenting the ATIPP coordinator exchange, Robert Keenan contacted me in October 2025 asking whether I had received my records. I confirmed I had received the 600 pages through the informal disclosure prior to filing my complaint and had received the missing payment history records on September 17 2025 only after filing my OIPC complaint. His response was as follows.

First, there is no formal or informal ATIPP process. From my discussions with FAMA, they do not support this language and regret that it was used by the previous ATIPP coordinator who was working on your file. Once you make your ATIPP request, the department is bound to respond. What you received is the formal response from FAMA; our office would not be able to accept a complaint from you if you had not made a formal request to FAMA. On our

end, we do like to resolve matters informally. By that we mean we would prefer not to release reports if we can get the parties to agree on a resolution.

That response requires careful examination on two points. First Keenan stated that FAMA does not support the language of formal or informal ATIPP process and that the previous coordinator regretted using it. That framing treated a confirmed multi-year systemic institutional practice as an individual coordinator's terminology error. The OIPC's own closure letter issued two months later directly contradicted that framing by confirming the Income Support Division created its own guidelines and operated an unauthorized process for many years. What Keenan dismissed in October 2025 as regrettable language the OIPC formally confirmed in December 2025 as a systemic institutional failure.

Second the line we would prefer not to release reports if we can get the parties to agree on a resolution documents that the preference for informal closure was not a conclusion reached after investigation. It was the institutional starting position communicated at first contact before any investigation had taken place.

I responded identifying that this was not a simple misunderstanding about terminology but appeared to be an intentional attempt by FAMA to bypass the ATIPP process entirely. I documented that I had received no formal acknowledgement letter for my request, only a transfer to Income Support Enquiries, no extension letter after 30 business days, and that the most important records in my request were missing until after I filed my complaint. I requested that the complaint be treated as warranting a formal investigation and a Commissioner's Report.

When I asked whether the OIPC would proceed to a formal investigation the analyst responded as follows.

In general, it is my recommendation that this matter be resolved informally. I know you would like a report written and I can't resolve this informally without your consent. But a report will not further this matter at this point.

I explicitly refused informal resolution and requested a formal investigation and Commissioner's Report. The analyst acknowledged my refusal and indicated the matter was being considered by management.

Nothing has been finalized yet regarding whether to issue a report for your complaint or not. To be clear, no one is saying the Department handled things properly, at least in the beginning. And that will be made clear to the Department regardless of how this file is concluded. However, there are more ways to resolve a file formally than by issuing a report. That is what we are considering.

The analyst then confirmed the reasoning for not issuing a public report in the following words.

For me, the issue was whether we should issue a report to highlight FAMA's mistake. There are pros and cons to this approach, but in the end it was decided that doing so would just be antagonistic.

Those words require careful attention. The analyst acknowledged there were pros and cons to issuing a report. He consulted his manager. The decision reached after that consultation was that issuing a public report about a confirmed multi-year failure to comply with an obligation under the Act affecting Income Support recipients would just be antagonistic. That word was chosen deliberately. It was not that a report was unnecessary. It was not that a report would serve no purpose. It was that a report would antagonise the Department. That is the OIPC stating in writing that concern for the Department's institutional feelings outweighed the public accountability purpose of ATIPPA, 2015. And that preference had been the institutional starting position since the very first email in October 2025.

I had answered that reasoning before it was adopted. On November 6 2025, replying to the email that first used the word, I wrote that a formal investigation and Commissioner's Report was necessary "not to be antagonistic, but to ensure accountability, prevent recurrence, deter other departments from engaging in similar practices and uphold the integrity of ATIPPA, 2015." In the same email I asked the question that this submission exists to put before the Committee: if they treated me this way, what happens to individuals who are less informed about their rights?

Neither point is addressed anywhere in the closure letter issued four weeks later, or in the correspondence that followed it. The reasoning I had answered in advance was adopted without reference to the answer.

What the Formal Section 45 Closure Letter Said

The formal closure letter confirmed the violation and then relied on Section 45(1)(a) to close the file without a report. The letter contained the following.

To be clear, this Office does not condone the approach followed by the Income Support Division in handling access requests and this perspective has been made clear to the Department. It is unfortunate that the stress and frustration to trigger a change in the Department has fallen on you. With that said, we do believe the Department is committed to change.

The sentence it is unfortunate that the stress and frustration to trigger a change in the Department has fallen on you is a remarkable admission. The OIPC is acknowledging that a citizen bore the entire burden of exposing a confirmed multi-year systemic failure to comply with a legal obligation while the broader affected population received nothing.

The letter then quoted the Department's commitment to change and stated the following.

This Office appreciates your position that the OIPC should release a formal report highlighting the improper procedure utilized by the Department. While we disagree on the release of a report, we do note that this letter, along with submissions from the Department, will remain on file in our Office as a commitment from the Department to change its approach to Income Support access requests. As such, a failure to change by the Department will result in a report that highlights the failure by the Department to make the appropriate changes after the commitment to do so has already been made.

No public report now. A threat of a public report only if the Department fails to maintain the commitment in the future. The citizens affected by the multi-year bypass receive nothing. And the only recourse available to me was a 15 business day window to file a Trial Division appeal against the OIPC's Section 45 decision.

What Happened When I Challenged the Decision

After receiving the Section 45 closure letter I wrote directly to Commissioner Hatfield requesting a supervisory review raising four specific arguments. First the adequate response threshold was not met given the confirmed multi-year bypass, the missed statutory deadline, the absence of a formal cover letter, and the omission of the payment history records until a complaint forced their production. Second antagonistic is not a statutory ground for declining to issue a report. Third the violation was systemic not isolated. Fourth the commitment to change is not enforceable without a public report.

The Senior Access and Privacy Analyst Andrew Collins responded on behalf of the Commissioner as follows.

I want to clarify that although the letter came from Mr. Keenan, all decisions to close a file via section 45 are made with the Commissioner's approval. Before closing your file, the Commissioner and I had considered the issues you have raised and concluded the Department had responded adequately to your complaint and a report was not necessary.

That response confirms the antagonistic reasoning was a Commissioner level institutional decision not an analyst's personal judgment. The Commissioner and senior management collectively concluded the Department's private commitment was adequate despite the confirmed multi-year bypass, the late production, and the omission of the most important records until a complaint forced their production.

I also note that the formal Section 45(2) notice itself, which required Commissioner approval before issuance, advised me of my right to appeal the decision of Town of Salmon Cove to the Trial Division rather than the decision of the Department of Families and Affordability. Town of Salmon Cove is an unrelated municipality with no connection to this complaint. While this appears to be a template error, it occurred in a formal legal notice that the Commissioner personally reviewed and approved before it was sent. The practical consequence of this error is not trivial. Had I filed a Trial Division appeal against the Town of Salmon Cove as the notice directed, that appeal would almost certainly have been dismissed on a jurisdictional technicality. The appeal rights provided by Section 52(3) run against the decision of the head of the public body that relates to the request. Naming the wrong public body in the notice of those rights is not a harmless administrative oversight. It is an error in the one paragraph of the letter whose sole purpose is to tell a complainant how to protect their legal rights within a 15 business day window. A complainant who followed the notice as written and named the Town of Salmon Cove in their Trial Division application would have lost their appeal rights entirely through no fault of their own. The error appears in a notice that, on this Office's own account, was issued with the Commissioner's approval. The full text of this letter is reproduced in Annex A.

When I asked Collins to explain the rationale he provided the following institutional justification.

The Access to Information and Protection of Privacy Act, 2015 is remedial legislation and the Commissioner's powers to make recommendations are forward-looking. That is, we cannot change past practices but can make recommendations for improvements going forward. Through your complaint, and our investigation of your complaint, the Department of Social Supports and Well-Being has agreed to do the one thing we would have recommended: to stop processing access requests for information about income support files through its internal process, but to instead treat them as formal access to information requests with all of the rights afforded by ATIPPA, 2015. Further, the Department provided you with a response to your request. On that basis, this Office concluded the Department had responded adequately to your complaint.

Collins then closed with the following.

As our investigation is closed, and the reasons for closing our investigation have been provided in our December 5, 2025 letter to you, we will not be commenting further.

That is the same closed file no further correspondence pattern documented in my other submissions to this review. The same institutional preference for informal closure appears in the GS-124-2025 file documented in Submission 1, where the analyst twice recommended informal resolution and offered a prediction of the outcome as a reason to accept it. Two files, two analysts, the same posture. Two separate OIPC management officials on two separate complaints using identical language to shut down legitimate questions about the reasoning behind their decisions.

Gap 1 — The OIPC Has Unrestricted Discretion to Decline Issuing Public Reports Even for Confirmed Systemic Violations

The Legal Framework

Section 45(1)(a) of ATIPPA, 2015 allows the Commissioner to refuse to investigate or to cease an investigation where the head of a public body has responded adequately to the complaint. There is no provision in ATIPPA, 2015 that requires the Commissioner to issue a public report where a systemic failure to comply with a legal obligation has been confirmed. The Commissioner has complete discretion to accept a commitment to change and close the file privately regardless of the severity or duration of the violation.

Why This Is a Structural Gap

The OIPC analyst confirmed in writing that the Department had created its own guidelines to replace the statutory requirements of ATIPPA, 2015 and operated those guidelines for years. He confirmed there were pros and cons to issuing a report. He consulted his manager. The Commissioner personally approved the closure. The conclusion at the Commissioner level was that issuing a report would just be antagonistic.

The word antagonistic is not a legal standard. It is not a statutory ground for declining to issue a report. It is an institutional preference for maintaining a comfortable relationship with the public body being overseen. An oversight body that weighs the pros and cons of publicly

reporting a confirmed multi-year failure to comply with a legal obligation and concludes against reporting because it might upset the Department it oversees is not exercising independent oversight. It is protecting institutional relationships at the expense of public accountability.

An independent oversight body must maintain a clear distinction between punitive overreach and statutory transparency. A public report should never be issued for the purpose of embarrassing or punishing a public body. However an oversight body must never withhold a factually accurate evidence-supported report simply because a public body may find it uncomfortable. Accountability is inherently uncomfortable. When the OIPC frames its decision around whether a report will be antagonistic it asks the wrong question. The only lawful questions an oversight body should ask when a multi-year guideline-driven bypass is confirmed are these. Was there a systemic issue. Is there public value in documenting it. Would a report create a useful precedent for future applicants. Whenever the answer to those questions is yes public accountability must outweigh institutional comfort.

The forward-looking mandate argument provided by the Senior Analyst is also problematic. The OIPC stated that its powers to make recommendations are forward-looking and that it cannot change past practices. That interpretation is too narrow. Section 47 reports do not only make forward-looking recommendations. They document what occurred and why the public body failed to comply with the Act. That documentation serves the public interest regardless of whether it changes past practices. It informs the public about institutional conduct. It creates a precedent. It deters future violations. It protects future applicants who would otherwise have no way of knowing the violation occurred. None of those purposes are merely forward-looking.

The forward-looking framing in the closure letter reveals a further problem. The letter states that a failure to change by the Department will result in a report that highlights the failure by the Department to make the appropriate changes after the commitment to do so has already been made. That framing treats December 2025 as the relevant starting point for the Department's compliance obligation. It is not. The obligation to process Income Support access requests under ATIPPA, 2015 existed from the date the Act came into force. The Income Support Division's own guidelines that replaced ATIPPA were not a pre-2015 legacy practice that predated the obligation. They were a failure to comply with an obligation that existed from 2015 onward and continued for the entire period during which the Act was in force. The OIPC's letter effectively erases a decade of non-compliance by treating the December 2025 commitment as if it were the beginning of the Department's obligation rather than a belated acknowledgement of an obligation that had existed and been violated for ten years. A future failure to comply will result in a report. A decade of past non-compliance resulted in a private letter filed in the OIPC's internal system. That asymmetry is not accountability. It is institutional amnesia with a prospective warning attached.

Section 3 of ATIPPA, 2015 states that the purpose of the Act is to make public bodies more accountable to the public and to protect personal information. A confirmed multi-year failure to comply with an obligation under the Act where the Division created its own guidelines to replace ATIPPA is precisely the kind of institutional conduct that the accountability purpose of the Act exists to bring to public attention.

A Report Need Not Have Been Adversarial

The word antagonistic assumes that a report is a punishment. Nothing in Section 47 supports that assumption, and the report this file called for would not have been adverse to the Department at all.

Consider what such a report would have contained on the Office's own findings. That for a period of years the Department transferred formal Income Support access requests to a division that processed them outside ATIPPA, 2015, including by not issuing formal responses. That this was inconsistent with the Act. That the practice was corrected after a complaint was filed. That the Department acknowledged its error to this Office. That the Department committed in writing to process such requests formally in future. And a recommendation that the Department confirm the change and review whether any other category of request is being handled outside the statutory process.

Such a report would run to a few pages. Two of the five findings set out above are favourable to the Department: that it acknowledged its error, and that it corrected the practice. A report containing them would not have been an attack on the Department. It would have been a record that a mistake occurred and that the Department put it right.

There is a further difference, and it is the one that matters most. A report under Section 47 carries recommendations, and Section 49(1)(b) requires the head of the public body to give written notice of the decision on those recommendations to the commissioner and to any person sent a copy of the report, within 10 business days. A report therefore produces a formal commitment on the record, made in response to a published finding, with a stated deadline for making it. What was accepted instead was a private undertaking contained in submissions to this Office, requiring no formal response, subject to no deadline, and visible to nobody.

The only public body such a report reflects badly on is one that gives a formal commitment and then breaks it. Which is to say that the objection to a report is not that it wounds. It is that it creates a standard capable of being checked later.

The choice in this file was therefore never between antagonising the Department and protecting it. It was between a public record and no record at all. A department that has admitted a mistake and corrected it has little to fear from a document saying so. What disappears without the report is not the Department's discomfort. It is the public's knowledge that any of this occurred.

The Private Commitment Precedent Problem

Senior Analyst Collins argued that because the Department agreed to do the one thing the OIPC would have recommended a public report was unnecessary. That argument creates a dangerous institutional precedent. It means any public body caught in a systemic violation can avoid a public report simply by making a private commitment.

The incentive structure this creates is perverse. Public bodies should comply with ATIPPA, 2015 publicly. Yet under this framework when caught violating the Act they are incentivized to change privately solely to avoid public accountability. The more serious the violation the more valuable the private commitment becomes as a tool for avoiding a public record.

Furthermore the private commitment accepted in this case still permits the exact same bypass to occur under the guise of applicant consent. An Income Support recipient who does not understand their statutory rights can still be steered toward an unprotected informal option with a single administrative question. The commitment is entirely unenforceable. There is no monitoring mechanism, no oversight, and no public record of the multi-year bypass to warn future applicants.

This unrestricted discretion inevitably creates institutional incentives that push an oversight body toward the path of least resistance when managing systemic failures. By prioritizing an informal commitment to change to avoid being antagonistic to a government department the OIPC engaged in an institutional risk calculation. The OIPC determined that a well-resourced public body with an ongoing working relationship with the OIPC posed a higher institutional risk than a self-represented senior on a fixed income whose only leverage was a 15 business day window to commence Trial Division proceedings he could not afford.

Choosing institutional comfort over statutory enforcement ensures that the power imbalance between the state and the individual is reproduced rather than corrected by the watchdog entity created to correct it. It leaves vulnerable citizens unprotected against documented administrative failures while ensuring that the public and the legislature remain uninformed about multi-year statutory violations that affected an entire population of Income Support recipients.

A private commitment and a public report are not equivalent remedies. They serve different beneficiaries. A commitment to change going forward serves the OIPC's relationship with the Department. A public report serves the citizens who were affected and the public who has a right to know. Treating them as equivalent conflates two completely different accountability obligations.

A Commitment to Comply With the Act Is Not a New Commitment

The closure letter records that the Department's submission and the letter itself will remain on file as a commitment from the Department to change its approach to Income Support access requests, and that a failure to change will result in a report highlighting that failure.

Three things follow from that paragraph.

The first is that the commitment adds nothing to what the Department already owed. ATIPPA, 2015 came into force on June 1, 2015. From that date the Department was required by law to process access requests under the Act. It was required to do so throughout the period the Office describes as many years, during which, on the Office's own finding, it did not. A promise to begin complying with a statute is not an undertaking given in exchange for something. It is a restatement of an obligation that already existed and had not been met for a decade.

The second is that the enforcement mechanism is circular. The consequence held in reserve for breaching the commitment is a report under Section 47. A report under Section 47 was equally available as a consequence of the original failure to comply, and it was declined. Nothing was added to this Office's enforcement position by accepting the commitment, and nothing was given up by the Department in making it. The deterrent depends entirely on a report being

issued in some future case of the same kind, in circumstances where one was not issued in this case. The sentence announcing the deterrent appears in the letter that declined to apply it.

The third is that a private commitment has no durability and no public baseline. It depends for its effect on the continued presence of the people who took it, and staff move on in every organisation. Nothing in the Act requires such a commitment to be recorded publicly, revisited at any point, or reported on. The letter states that it will remain on file in this Office, and I accept that it will. But it is on file in a place no member of the public can see, and the applicants for whose benefit it was given do not know that it exists.

The practical consequence appears if the practice returns. Suppose an Income Support applicant is diverted into an informal process in 2029. That applicant cannot know a commitment was given in 2025, so they cannot invoke it. They will complain, if they complain at all, as though the matter were new. Whether the earlier commitment is recalled within the Office depends on who is still working there. The enforcement mechanism this Office described — that a failure to change will result in a report — requires someone to know what the change is being measured against, and requires an applicant to complain again in order to trigger the comparison. A published finding creates that baseline and fixes it in place, available to the next applicant and to this Committee. A letter in a file does not.

I raise this because it goes to whether a commitment of this kind is a remedy at all. If it is, it should be published and compliance with it measured, which is what the alternative proposed under Amendment 1 would require. If it is not, then the Act should not permit a confirmed systemic failure affecting an entire class of applicants to be closed on the strength of one.

The Systemic Finding Existed Only Because One Applicant Kept Asking

The finding recorded in the closure letter did not arrive at the start of the investigation. It arrived at the end of it, and only after the Office had twice taken a different position.

On October 15 2025 the analyst wrote to me as follows.

First, there is no formal or informal ATIPP process. From my discussions with FAMA, they do not support this language and regret that it was used by the previous ATIPP coordinator who was working on your file. Once you make your ATIPP request, the department is bound to respond. What you received is the formal response from FAMA; our office would not be able to accept a complaint from you if you had not made a formal request to FAMA.

Two things in that paragraph were later abandoned. The first is the characterisation of the problem as language used by one previous coordinator, which the Department regretted. The second is the statement that what I received was the formal response from FAMA.

On November 6 2025, after reviewing the records and speaking with the Department and with his manager, the same analyst wrote:

As an office, our biggest concern was with the process that FAMA followed, which you highlight below. For whatever reason, FAMA historically put requests like yours through a different process and acted as though ATIPPA, 2015. This was not proper and was a major challenge for you. They should not have done that.

And on December 2 2025 the closure letter recorded that for many years the Department had been transferring Income Support requests to a division that created its own guidelines, such as not providing formal responses, and that the coordinator only realised the error late in the process and began to manage the request in the appropriate form.

The position therefore moved from one coordinator's regrettable wording to a multi-year divisional practice, and from what I received being the formal response to my request not having been addressed under the Act at all. I do not raise this as a criticism of the analyst, who investigated and reported what he found. I raise it because of what it shows about the process. The systemic finding in this file exists because a single applicant declined an informal resolution three times and kept asking questions across four months. Nothing in ATIPPA, 2015 required it to be found, and had I accepted the first assessment the multi-year practice would never have been recorded anywhere. The file would have closed on the account given in October: that the difficulty was regrettable wording used by a previous coordinator.

The Act Imposes a Public Interest Test on Every Body the Commissioner Oversees, and None on the Commissioner

There is an asymmetry in ATIPPA, 2015 that this file brings into focus, and I raise it as a question of statutory design rather than as a criticism of any decision.

Section 9 provides that where a public body may refuse to disclose information under a listed provision, the discretionary exception shall not apply where it is clearly demonstrated that the public interest in disclosure outweighs the reason for the exception. Every public body in this province must therefore weigh the public interest before withholding information, and must be able to show this Office that it did so. That is the discipline the Act imposes on the bodies the Commissioner oversees.

No equivalent discipline applies to the Commissioner's own decision whether to publish a finding. Section 45 permits a refusal to investigate on stated grounds. Section 47 permits a report. Neither requires the commissioner to consider whether the public interest favours publication, to record that consideration, or to explain the conclusion reached.

The consequence is visible in my file. A department that withholds a single paragraph must weigh the public interest and justify the outcome to this Office. An oversight body that withholds a finding of multi-year non-compliance affecting an entire class of applicants need weigh nothing, record nothing, and explain nothing. In this case the consideration that was recorded — that a report would be antagonistic — is one the Act neither requires nor mentions.

I should be precise about what follows from this, because Amendment 1 proposes two different things. Subsection (1.1) would remove the discretion where the failure is systemic, and I have set out an alternative below in case the Committee considers that too restrictive of a discretion the Legislature conferred. This section is directed at something narrower and separate. Wherever the discretion remains, and under the alternative it would remain in every case, it should be exercised against the same public interest standard the Act imposes on every body the Commissioner oversees, and the exercise should be recorded. That is the substance of subsection (1.3).

Proposed Amendment 1 — Mandatory Public Reports for Confirmed Systemic Failures

Insertion target: Amend Section 45 (Refusal to Investigate).

45(1.1) Limitation on Refusal Where a Systemic Failure Is Confirmed. The commissioner shall not refuse to investigate a complaint, or cease an investigation, under paragraph (1)(a) where the commissioner has determined that the public body has failed to comply with an obligation under this Act (a) on more than one occasion, (b) in relation to more than one applicant, or (c) as a result of a policy, guideline or practice of the public body. In those circumstances the commissioner shall issue a report under Section 47.

45(1.2) Irrelevant Considerations. In determining whether to issue a report under Section 47, the effect of the report on the working relationship between the commissioner and a public body shall not be a relevant consideration.

45(1.3) Public Interest in Publication. Before refusing to investigate or discontinuing an investigation under this section, or deciding not to issue a report under Section 47, in a case where the commissioner has found that a public body failed to comply with an obligation under this Act, the commissioner shall determine whether the public interest in issuing a report outweighs the reasons against issuing one.

In making that determination the commissioner shall have regard to

- (a) whether the failure was systemic or affected a class of applicants;
- (b) the vulnerability or dependence of the applicants affected;
- (c) whether those applicants can reasonably learn of the failure by other means;
- (d) the value of a public record for deterrence and for future oversight; and
- (e) whether any undertaking given by the public body is publicly recorded and capable of being monitored.

The commissioner shall record the determination and the reasons for it in the notice given under subsection (2).

The OIPC analyst confirmed in writing that the Department had created its own guidelines to replace the statutory requirements of ATIPPA, 2015 and operated those guidelines for years. He confirmed there were pros and cons to issuing a report. He consulted his manager. The Commissioner personally approved the closure. The conclusion reached at the Commissioner level was that issuing a report would just be antagonistic.

The word antagonistic is not a legal standard. It is not a statutory ground for declining to issue a report. Subsection (1.1) removes the discretion where the failure is systemic rather than isolated, and subsection (1.2) removes from the analysis the one consideration that should never have entered it. Subsection (1.3) applies to the commissioner the same public interest discipline that Section 9 applies to every public body she oversees, for the reasons set out under Gap 1 above. Its trigger is deliberately drawn to cover a refusal to investigate and a

discontinuance as well as a decision not to report, because in my file the decision not to report was made within a Section 45 closure rather than separately from one. Factor (b) reflects that the applicants affected here were Income Support recipients, and factor (e) connects the determination to whether the undertaking relied upon is one anybody outside the Office can see or monitor. Requiring the determination and the reasons for it to be recorded in the notice ensures that an applicant, and this Committee, can see that the weighing was carried out and on what basis.

Alternative to subsection (1.1), if the Committee considers a mandatory report too restrictive of the commissioner's discretion. Of the three subsections proposed above, only subsection (1.1) removes a discretion. It converts the permissive language of Section 45(1) into a duty where a systemic failure has been found. I recognise that converting a discretion the Legislature conferred into a duty is a substantial step, and that this Committee may prefer a narrower measure in its place. If so, I propose the following as a substitute for subsection (1.1). Subsections (1.2) and (1.3) remove no discretion, and I propose them regardless of which course the Committee prefers.

45(1.1A) Publication of Commitments. Where the commissioner refuses to investigate or ceases an investigation under paragraph (1)(a) in reliance on an undertaking by a public body to change a policy, guideline or practice, the commissioner shall (a) publish the undertaking, and (b) report in the annual report of the commissioner on whether the public body has complied with it.

This alternative leaves the discretion to decide whether a report is warranted entirely intact. It changes only whether the commitment relied upon in place of a report is private. In my file the commitment exists in a letter to me and in the Office's file. Nobody else knows it was made, nobody can tell whether it has been honoured, and the applicants who received the informal process before the change have no way of learning that any of this occurred. Publication and annual reporting would remedy that at close to no cost, and would give the commissioner's stated enforcement mechanism — that a failure to change will result in a report — something to be measured against.

It would also give the commitment durability. As set out under Gap 1, a commitment recorded only in an office file depends on the continued presence of the people who took it and is invisible to the applicants it was given for. Publication and annual reporting fix the baseline in place, so that it does not depend on who is employed at the Office when the time comes to check.

Proposed Amendment 2 — Retrospective Purpose of Commissioner's Reports

Insertion target: Amend Section 47 (Report of Commissioner).

47(1.1) Purposes of a Report. A report under this section serves to (a) document the conduct of the public body and the reasons it did not comply with this Act, (b) inform the public and affected applicants of that conduct, and (c) make recommendations for future compliance. The forward-looking nature of the commissioner's recommendation powers does not limit the purposes described in paragraphs (a) and (b), and a public body's agreement to change its future practice does not by itself satisfy them.

The institutional justification provided to me was that the Act is remedial legislation and that the Commissioner's powers are forward-looking, so that past practices cannot be changed. That interpretation is too narrow. A report under Section 47 does not only recommend. It documents what occurred and why the public body failed to comply. That documentation informs the public, creates a precedent, deters future violations, and protects applicants who would otherwise have no way of knowing the violation occurred. None of those purposes are merely forward-looking, and subsection (1.1) says so.

Gap 2 — ATIPPA Contains No Prohibition on Departments Routing Access Requests Through Informal Processes Outside the Statutory Framework

What Happened

The Department's own Senior ATIPP Coordinator first redirected my formal ATIPP request to Income Support Enquiries without notification and then subsequently confirmed in writing that income support files are provided outside of the ATIPP process as an informal disclosure and that it is our internal process to provide all income support records as an informal disclosure. When challenged on this she stated it does not limit your ability to appeal to the OIPC. That statement is legally incorrect under ATIPPA, 2015. An informal disclosure removes the right to a formal written decision, the right to complain to the OIPC about the response, statutory deadlines, the right to have exemptions formally justified, and the right to appeal to the Trial Division. That statement was made in writing to an applicant who had already insisted on formal processing, and it was incorrect.

Why This Is a Structural Gap

ATIPPA, 2015 contains no prohibition on a department offering an informal disclosure option to an applicant and no requirement that applicants be informed of the statutory protections they waive by accepting one. The Department operated its informal process for years as a failure to comply with its obligations under the Act. The commitment to change still permits the same bypass with applicant consent. Any applicant who does not understand their rights can still be told that their records will be provided informally, and can agree without knowing what they are giving up. Nothing confines that risk to Income Support files, or to this Department. The system protects citizens who know their rights and assert them. It leaves everyone else exposed.

It is worth setting out what would have happened in my own file had I not known any of this.

The request would have been dealt with by the division it had been forwarded to, through the informal process the Coordinator described as the Department's internal practice. I would have received records. I would not have received the 38 pages produced on September 17 2025, because those were generated on a second review, and the second review took place because I complained. Among those 38 pages were the 18 pages of payment history, which were the records I needed in order to understand how the alleged debt had been calculated. Obtaining them was the reason I filed the request.

I would also have had no route to complain about any of it. This Office's analyst put that position plainly in writing: our office would not be able to accept a complaint from you if you had not made a formal request to FAMA. An informal disclosure produces no decision under the Act, and Section 42 permits a complaint only in respect of a decision, act or failure to act of the head of a public body that relates to a request made under this Act.

So the position would have been as follows. I had been unable for over a month to obtain answers from the Department directly. I filed an access request in order to escape that. The request would have been routed back to the same division, answered informally, without the records I was seeking, and with no oversight body able to accept a complaint about the outcome. I would have finished where I started, holding less than I had asked for, and with nowhere to take it.

None of that occurred. The only reason it did not is that I knew the Act well enough to refuse, twice, in writing. The protection was not in the statute. It was in what I happened to know.

Proposed Amendment 3 — Informed Consent Before Waiving Statutory Protections

Insertion target: Add as Section 13.1 under Part II (Access to Records).

13.1 (1) Closure of a Request in Favour of Informal Disclosure. A public body shall not close, transfer or cease processing a request made under Section 11 on the basis that the records will be provided informally, unless the applicant has been given written notice under subsection (2) and has provided written consent.

(2) Contents of the Notice. The notice shall state, in plain language, each right the applicant will not have if the request is closed, including the right to a response under Section 17, the right to have any exception applied and justified under Division 2 of Part II, the time limits imposed by this Act, the right to file a complaint under Section 42, and the right to appeal under Section 52.

(3) Prohibition on Routine Diversion. A public body shall not adopt a guideline, policy or practice under which a class of requests made under Section 11 is routinely processed outside this Act.

Subsection (3) addresses what actually happened here. This was not an individual coordinator's error. The Income Support Division created its own guidelines, and those guidelines governed a whole class of requests for years. Subsections (1) and (2) address the residual risk that remains even after the Department's commitment to change: an applicant who does not understand their rights can still be asked whether they consent to an informal process, and can still say yes without being told what they are giving up.

Gap 3 — Section 45 Adequate Response Cannot Be Established by Volume of Records When the Most Important Records Were Omitted

What Happened

The OIPC accepted the Department's response as adequate under section 45(1)(a). The Senior Analyst justified this partly by stating that the Department provided you with a response to your request and that you did receive more than 600 pages of responsive records. That characterisation is fundamentally incomplete.

The most important records in my request were 18 pages of payment history that I specifically needed to understand the debt being collected from me. Those were the records I had been trying to obtain through informal requests for over a month before filing formally. Those records were not included in the initial 600 page package. I received them only after I filed an OIPC complaint. The complaint was necessary not only because the process was wrong but because the substantive outcome was incomplete.

The Department described the position itself, and its own words are the clearest evidence on this issue. The records provided on September 10 2025 were described to me in the covering email as my complete income support file. The formal response letter of September 17 2025 likewise states that “the attached records package is your entire income support file.” The email that delivered that letter, however, explains where the additional records came from:

There has been an additional 38 pages of records added as a result of a formal second review of your request. These are new screenshots and reports generated from our system and therefore were not a part of your original income support file.

Three things follow. The additional records existed in the Department's systems throughout. They were not part of what was searched when the request was first processed. And they were produced because a second review took place, which took place because I filed a complaint.

That is the whole of Gap 3 in the Department's own account. A public body can search a file, describe the result as complete, be found to have responded adequately, and never have looked in the place where the records the applicant asked for actually were. The distinction is not between a complete response and an incomplete one. It is between a response and a second review, and under the Act as drafted only the outcome of the second review is assessed.

The closure letter described the sequence as the ATIPP Coordinator eventually realizing the error late in the process. That characterisation is contradicted by the documented email exchange. The Coordinator did not realize an error. She explicitly defended the informal process in writing as it is our internal process even after I challenged it. She only changed course when I demonstrated knowledge of ATIPPA and threatened an OIPC complaint. That is not realizing an error. That is abandoning a long-standing institutional practice under pressure from a citizen who happened to know their rights.

Why This Is a Structural Gap

Section 45 was designed to allow efficient resolution of individual complaints where a public body has corrected a specific error. It was not designed to allow systemic failures to comply with legal obligations to be resolved through private commitments when the substantive outcome of the initial response was itself incomplete. An adequate response cannot be established by pointing to the volume of records produced when the most important records in the request were specifically excluded from the initial response and only obtained through the complaint process itself.

A Section 45 closure renders the OIPC functus officio on the matter permanently closing its doors to the applicant while leaving a confirmed systemic failure to comply with a legal obligation off the public record. This forces a senior on a fixed income into a 15 business day window to commence Trial Division proceedings against the province's information and privacy oversight body simply to demand a public report about a confirmed statutory violation. That is not an accessible remedy. It is a cost-prohibitive barrier that exists precisely because the Act provides no internal reconsideration mechanism between a Section 45 closure and a Trial Division appeal.

The Act currently contains no requirement that the OIPC assess whether the records eventually produced after a complaint was filed were the same records that should have been produced in the initial response. A public body that produces incomplete records initially and then adds the missing records only after a complaint is filed has not responded adequately to the original request. It has responded adequately to the complaint. Those are different things.

The closure letter acknowledged it is unfortunate that the stress and frustration to trigger a change in the Department has fallen on you. That sentence confirms the citizen bore the entire burden of exposing a systemic institutional failure to comply with a legal obligation while the broader affected population received nothing. A private acknowledgement that the burden fell on them is not accountability. It is sympathy without consequence.

The Duty to Assist Was Never Assessed

Section 13(1) requires the head of a public body to make every reasonable effort to assist an applicant in making a request, and to respond without delay in an open, accurate and complete manner. Section 13(2) requires that the applicant and the head communicate with one another under Part II through the coordinator.

Nothing in the closure of my complaint records a determination on either subsection. The Office concluded under Section 45(1)(a) that the Department had responded adequately to my complaint. That is a different question. Section 45(1)(a) asks whether the public body has answered the complaint. Section 13 asks whether it assisted the applicant and responded openly, accurately and completely. A public body can satisfy the first while failing the second, which is what I say occurred here.

On Section 13(2), my request was forwarded to Income Support Enquiries and I was told that another official "should be able to provide an update." The Coordinator apologised for not notifying me of the transfer. The statutory channel of communication was therefore handed to a division that, on this Office's own finding, did not follow the procedure set out in the Act.

On Section 13(1), I was told that Income Support files are provided outside the ATIPP process as an informal disclosure, and that this “does not limit your ability to appeal to the OIPC.” That assurance was the basis on which I was invited to accept the informal route. This Office’s own analyst later wrote that “our office would not be able to accept a complaint from you if you had not made a formal request to FAMA.” Whatever else may be said about it, a statement that a citizen will keep their complaint rights if they accept a non-statutory process is not an accurate response.

There is a further point that goes deeper than either subsection, and it is the one I would ask the Committee to weigh most carefully. The duties in Part II attach to a request made under the Act. When the Department treated my request as an informal disclosure, it did not perform those duties badly. It proceeded as though they did not apply at all.

Consider the position at the point the twenty business day period under Section 16 expired on August 29 2025. I had received no decision, no notice of extension, and no indication that the request was being processed under the Act at all. That is why I wrote on September 5 that the request stood in deemed refusal. Forty days after filing, the only substantive thing I had been told was that Income Support files are provided outside the ATIPP process as an informal disclosure.

Records arrived on September 10 2025, five days after I complained. The covering email cited Section 40 as the exception applied and set out my right to ask this Office to review the processing of the request and my right to appeal to the Trial Division. What it did not do was answer the question in dispute. It did not say whether this was a response under the Act or the informal disclosure I had twice refused. I wrote back the same evening asking that precise question, and asking for a formal response letter confirming the scope of the records provided.

That letter came on September 17 2025, with a further 38 pages. It bears a file number, records a decision of the Deputy Minister, reproduces the request, and sets out the statutory notices in full.

I do not say the Department never complied with Part II. I say that nothing recognisable as compliance occurred until after the oversight body was involved, that the applicant was left for six weeks unable to establish whether his request was being processed under the Act, and that when he asked that question directly he was not answered until a week later.

That is what a bypass means in practice. It is not that the duty to assist was breached at each step of a statutory process. It is that the statutory process which gives rise to the duty was never entered. Section 13 protects an applicant whose request is being handled under the Act. The Act says nothing about an applicant whose request has been routed out of the Act altogether, and that applicant is the one who needs the protection most.

I raise this not to reopen the complaint but because of what the sequence shows about the Act. Section 13 imposes an obligation. Section 45(1)(a) permits a complaint to be closed on a finding of adequate response to the complaint, without any determination of whether that obligation was met. The result in my file is a documented multi-year departure from the statutory process with no finding anywhere on the duty that the process exists to serve.

Proposed Amendment 4 — Adequacy Measured Against the Initial Response

Insertion target: Amend Section 45 (Refusal to Investigate).

45(1.4) Meaning of an Adequate Response. In determining under paragraph (1)(a) whether the head of a public body has responded adequately to a complaint, the commissioner shall assess the adequacy of the response as it was originally made, and shall not treat the production of records after the complaint was filed as establishing that the original response was adequate. Where records responsive to the request were produced only after the complaint was filed, the commissioner shall record that fact in the decision issued under subsection (2).

45(1.5) Determination on the Duty to Assist. Where the commissioner refuses to investigate or ceases an investigation under paragraph (1)(a), the commissioner shall determine whether the head of the public body met the duty imposed by Section 13 in relation to the request, and shall record that determination and the basis for it in the notice given under subsection (2).

The 38 pages produced on September 17 2025 included the 18 pages of payment history. Those were the records I most needed, and the records I had been seeking informally for over a month before I filed anything. They were not in the 600 page package. They arrived twelve days after I filed my complaint, with no explanation of why they had been omitted. A public body that produces incomplete records initially and supplies the missing records only after a complaint has not responded adequately to the request. It has responded adequately to the complaint. Those are different things, and the Act does not currently distinguish between them.

Subsection (1.5) addresses the second half of the same problem, set out above. The duty in Section 13 is the obligation the access process exists to give effect to, and a complaint can presently be closed under paragraph (1)(a) without any determination of whether that duty was met. Requiring the determination costs the commissioner nothing she has not already assessed in reaching a view on adequacy. Requiring it to be recorded means the applicant, and any future applicant, can see what was decided.

Gap 4 — What Happens After a Section 45 Closure

Gaps 1 to 3 concern how a complaint is decided. This gap concerns what the Act provides once it has been decided, and the answer in each case is nothing.

Three separate defects appear at that point in my file, and each of them would apply to any complainant in the province. The notice that closed my complaint misidentified the public body whose decision could be appealed, and bore a date three days earlier than the day it was delivered. No mechanism exists by which a complainant can ask the Commissioner to review a closure short of commencing proceedings in the Supreme Court. And the applicants affected by the failure the Office had just confirmed were never told that it occurred, nor is there any provision under which they could have been.

The Notice Named the Wrong Public Body

The Section 45 closure letter of December 2 2025 advised me of my right to appeal “the decision of Town of Salmon Cove” to the Supreme Court of Newfoundland and Labrador. The Town of

Salmon Cove is a municipality. It has no connection to this complaint, to my access request, to the Department of Families and Affordability, or to any matter in my file.

The error appears in a formal statutory notice issued under Section 45(2), in a letter that on this Office's own account was issued with the Commissioner's approval. I identified it and was not prejudiced by it. A complainant who did not identify it would have had fifteen business days to commence an appeal against a public body that had nothing to do with their request, and Section 52(4) provides no extension once that period has run.

There is a second and smaller feature of the same notice. The letter is dated December 2 2025 and was delivered by email at 4:15 PM on December 5 2025. The manager of the investigations branch subsequently referred to it as the December 5 2025 letter. Section 52(4) provides that the period runs from when the applicant is notified, which points to December 5, but the only date on the face of the document is December 2. Nothing in the Act resolves which governs, and a complainant reading the letter has no way to calculate when the period expires.

There Is No Review Short of the Supreme Court

On December 6 2025 I asked the Commissioner to review the closure of my file. The reply came from the manager of the investigations branch and explained that all Section 45 closures are made with the Commissioner's approval, and that the Commissioner and he had considered the issues before closing the file.

That is a complete answer to a question I had not asked. I did not ask whether the decision had been approved. I asked that it be reviewed. Under the Act as drafted there is no difference between the two, because no review exists. The Commissioner approves the closure, and the only step available after the closure is an appeal to the Trial Division within fifteen business days.

Every other outcome under this Act that affects a citizen's rights carries some intermediate step. A refusal to investigate, which ends the matter entirely and produces no public record, carries none.

The Applicants Affected Were Never Told

This Office confirmed that for many years the Department transferred Income Support access requests to a division that created its own guidelines, such as not providing formal responses. Every applicant in that period received something other than what the Act entitled them to.

None of them knows. They did not receive a formal response, so they did not know one was due. They were not told of time limits, so they did not know the time limits were missed. They were not told they could complain, so they did not complain. They appear in no statistic and generated no file.

I received a corrected process because I knew the Act well enough to insist on it, and the Department changed its practice going forward. Neither of those outcomes does anything for the applicant whose request was diverted in 2022 and who still does not know that what they received was not a response under ATIPPA, 2015. Nothing in the Act permits the commissioner

to require that those applicants be told, and nothing requires anyone to consider whether they should be.

Proposed Amendment 5 — Accuracy of the Notice of Appeal Rights

Insertion target: Amend Section 45 (Refusal to Investigate).

45(2.1) Contents and Accuracy of Notice. A notice given under subsection (2) shall correctly identify the public body whose decision, act or failure to act may be appealed to the Trial Division under Section 52(3), shall state the date on which the notice is given to the complainant, and shall state the date on which the period for commencing an appeal expires.

45(2.2) Effect of a Defective Notice. Where a notice given under subsection (2) misidentifies the public body or misstates the appeal period, the period under Section 52(4) does not begin to run until a corrected notice is given to the complainant.

45(2.3) Extension of the Appeal Period. Section 52(4) is amended by striking out “15 business days” and substituting “30 business days”.

Subsection (2.1) responds to both defects described above. Requiring the notice to identify the public body correctly states the obvious. Requiring it to state the date it is given and the date the appeal period expires removes an ambiguity that will otherwise recur in every file, and costs the Office nothing, since both dates are known to it when the notice is written.

Subsection (2.2) is the provision that matters most. It ensures that an error made by the Office does not extinguish a right held by the citizen. I identified the error in my own notice and was not prejudiced by it; a complainant who did not would have spent the fifteen business days pursuing the wrong public body, and Section 52(4) provides no extension once that period has run.

Subsection (2.3) addresses the period itself. Fifteen business days is a short window in which to read a refusal, understand it, obtain advice on whether an appeal is available, decide whether to commence proceedings in the Supreme Court, and file. It is particularly short for the applicants this Act most needs to protect, who are the least likely to have counsel and the most likely to need time to find help. In my file that window began somewhere between December 2 and December 5, ran over a weekend, identified the wrong public body, and offered no other route of any kind. Thirty business days would not have changed the outcome in my case. It would give the next applicant a realistic opportunity to act.

Proposed Amendment 6 — Notice to Applicants Affected by a Confirmed Systemic Failure

Insertion target: Add as Section 47.1 under Part III (Reviews).

47.1 (1) Direction to Notify Affected Applicants. Where the commissioner determines that a public body has failed to comply with an obligation under this Act in relation to a class of applicants, whether or not a report is issued under Section 47, the commissioner may direct the public body to give written notice to each applicant in that class.

(2) Contents of the Notice. A notice under subsection (1) shall describe the failure to comply in plain language, identify the period during which it occurred, state what the applicant was entitled to receive under this Act, and advise the applicant of the right to make a new request under Section 11 and to file a complaint under Section 42.

(3) Confirmation to the Commissioner. The public body shall confirm to the commissioner in writing when notice has been given under this section and to how many persons.

This is the amendment that reaches the people this submission is actually about, for the reasons set out above under this gap.

A report under Section 47 informs the public. It does not reach the individuals affected, most of whom will never read an OIPC report. Subsection (1) is permissive rather than mandatory so that the commissioner retains discretion over whether notification is proportionate and practicable. What it removes is the current position, in which the option does not exist at all.

Proposed Amendment 7 — Right to Supervisory Review of a Section 45 Closure

Insertion target: Amend Section 45 (Refusal to Investigate).

45(2.4) Right to Supervisory Review. A complainant who receives a notice under subsection (2) may, within 15 business days, request in writing that the commissioner personally review the decision to refuse to investigate or to cease an investigation.

45(2.5) Conduct of the Review. The commissioner shall review the decision personally and shall respond to the complainant in writing within 15 business days, stating whether the decision is confirmed or varied and the reasons for that determination.

45(2.6) Effect on the Appeal Period. Where a review is requested under subsection (2.4), the period for commencing an appeal under Section 52(4) does not begin to run until the commissioner has responded under subsection (2.5).

For the reasons set out above under this gap, a complainant in my position has one remedy and it costs thousands of dollars. Subsections (2.4) and (2.5) create the intermediate step that the Act presently omits. Subsection (2.6) ensures that using it cannot cost the complainant the appeal right, which is the same protection proposed in Amendment 5 for a defective notice.

The same underlying gap appears in a different form in Submission 1 of this series, where a report was written and signed under authority delegated by the Commissioner and no internal review of it existed. The principle is the same in both files: a decision of this Office that materially affects a citizen should be capable of review by the Commissioner personally, without the citizen having to commence court proceedings to obtain that review.

Why These Amendments Matter

The four structural gaps described above allowed a government department to create its own guidelines constituting a failure to comply with its obligations under the Act for years, allowed the Department's own Senior ATIPP Coordinator to redirect a formal ATIPP request to the wrong division without notification and then tell an applicant in writing that informal

disclosure does not limit your ability to appeal to the OIPC when that statement was legally incorrect, allowed an oversight body at the Commissioner level to close the resulting complaint without a public report because doing so would just be antagonistic, justified that closure with a forward-looking mandate argument and an adequate response finding based on incomplete records, and left the vulnerable population affected with no way of knowing their rights were never respected.

The proposed amendments do not require the OIPC to find against public bodies. They require public reports for confirmed systemic failures to comply with legal obligations, informed consent before access rights are waived, and a meaningful adequacy standard that assesses the initial response not merely eventual production. That is accountability. That is what ATIPPA, 2015 is supposed to provide.

Analytical Questions for the Committee's Consideration

The following questions are offered to assist the Committee in considering the structural implications of the matters documented in this submission. They are presented strictly as forward-looking policy considerations and are not requests for findings on any past file.

Question 1: Systemic Failures and the Public Record. Where the commissioner has determined that a public body failed to comply with an obligation under the Act in relation to a class of applicants over a period of years, should the Act permit that determination to be recorded only in a letter to the individual complainant?

Question 2: The Working Relationship as a Consideration. Should the effect of a report on the working relationship between the commissioner and a public body be a lawful consideration in deciding whether to issue one? If it should not, what provision of the Act presently prevents it from being one?

Question 3: A Public Interest Test That Runs One Way. Section 9 requires every public body to weigh the public interest before withholding information and to be able to demonstrate that it did so. Should a comparable obligation apply to the commissioner's decision whether to publish a finding of non-compliance, and should the weighing be recorded?

Question 4: Undertakings in Place of Reports. Where a complaint is closed on the strength of an undertaking by a public body to change its practice, should that undertaking be published, and should compliance with it be reported on? If it is not, by what means would a future applicant, or this Committee, establish whether it was honoured?

Question 5: Routine Processing Outside the Act. Should a public body be permitted to adopt a policy, guideline or practice under which a class of requests made under Section 11 is routinely processed outside the Act?

Question 6: What an Applicant Gives Up. Where an applicant is invited to accept an informal disclosure in place of a request under the Act, should the Act require that they first be told in writing which statutory rights they are giving up, including that the commissioner may have no jurisdiction to accept a complaint about the outcome?

Question 7: When Adequacy Is Measured. In determining under Section 45(1)(a) whether a public body has responded adequately, should the commissioner assess the response as it was

originally made, or the position reached after a complaint has been filed and further records produced?

Question 8: The Duty to Assist. Should the Act require the commissioner to determine whether the duty in Section 13 was met before closing a complaint on the ground that the public body responded adequately?

Question 9: Defective Notice and the Appeal Clock. Where a notice issued under Section 45(2) misidentifies the public body whose decision may be appealed, or bears a date earlier than the day it is given, should the fifteen business day period in Section 52(4) run from that notice?

Question 10: Review Short of the Court. Should a complainant be able to ask the commissioner personally to review a decision to refuse to investigate, without commencing proceedings in the Supreme Court? If not, what feature of that decision makes it less deserving of review than decisions that do carry an intermediate step?

Conclusion

The OIPC investigator weighed the pros and cons of issuing a public report about a confirmed multi-year failure to comply with an obligation under the Act where the Income Support Division created its own guidelines to replace ATIPPA, 2015. He consulted his manager. The Commissioner personally approved the closure. The institutional justification provided was that the Act is remedial and forward-looking and that a private commitment to change achieved the one thing a report would have recommended.

That justification ignores three documented realities. The same ATIPP Coordinator who redirected the formal request to the wrong division without notification also told an applicant in writing that informal disclosure does not limit your ability to appeal to the OIPC which is legally incorrect. The most important records in the request were omitted from the initial response and only produced after a complaint was filed. And the broader population of Income Support recipients who went through the unauthorized process without knowing their rights was never told what happened and was never given the opportunity to file their own complaints.

The most direct evidence of the structural gap is in the investigator's own words. There are pros and cons to this approach but in the end it was decided that doing so would just be antagonistic. That reasoning is documented in writing at the Commissioner level. The current review must ensure it can never be used again to justify leaving a confirmed failure to comply with a legal obligation off the public record.

The Sequence

Everything in this submission reduces to the following.

1. I filed a formal access request under ATIPPA, 2015 for my own Income Support file.

2. The Department's Senior ATIPP Coordinator forwarded it to Income Support Enquiries, the same division that had been refusing me informally for over a month, and did not notify me for twelve business days.
3. The Coordinator confirmed in writing that Income Support files are provided outside the ATIPP process as an informal disclosure, and that this was the Department's internal process.
4. I refused. I was told that informal disclosure "does not limit your ability to appeal to the OIPC." That statement is not correct under this Act.
5. The Department did not change course when I refused, and did not change course when I said I would complain. On September 5 2025 I filed a complaint with the OIPC.
6. Approximately 600 pages were produced five days later, after the statutory deadline had passed. The payment history I most needed was not among them.
7. On September 17 the Department issued its formal response letter with a further 38 pages, including the 18 pages of payment history. The entire formal treatment of my request took place after the oversight body became involved.
8. At first contact, before any investigation, the analyst stated that the Office would prefer not to release reports if the parties can agree on a resolution.
9. The Office confirmed in its closure letter that for many years the Department had transferred Income Support requests to a division that created its own guidelines, such as not providing formal responses.
10. The Office declined to issue a public report. The analyst's stated reason was that a report would just be antagonistic.
11. The Commissioner personally approved the closure. The affected population was never told that their requests had been handled outside the Act.
12. The notice of my appeal rights named the wrong public body.

At no point in that sequence did I do anything the Act does not permit. The only reason the statutory process was followed at all is that I knew enough to insist on it. Every Income Support applicant who did not know their rights received the informal process, and none of them has been told.

Respectfully submitted,

David Hanrahan

ANNEX A — Section 45 Closure Letter, December 2, 2025

OIPC File 0005-156-25-002; Public Body File FAMA/64/2025. The letter is dated December 2, 2025 and was delivered by email at 4:15 PM on December 5, 2025, copied to the Department's Senior ATIPP Coordinator.

Office of the Information and Privacy Commissioner

By Email — December 2, 2025

Dear Mr. Hanrahan:

Subject: Complaint under the Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015); Our File: 0005-156-25-002; Public Body File: FAMA/64/2025

On September 5, 2025, you made a complaint to this Office about an access request you had submitted to the Department of Families and Affordability on August 1, 2025. Your request to the Department was for a copy of all records held by the Department relating to overpayments, benefits, communications, or actions taken on the applicant's file, in seven enumerated categories: records relating to overpayment or debt; communication and case file notes; financial condition report records; CRA set-off referral documentation; payment arrangement history; appeal or review options; and general administrative notes.

Initially, your access request was not addressed pursuant to the **Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)**. For many years, the Department was transferring requests related to income support directly to the Income Support Division, which would not follow the procedure set forth in ATIPPA, 2015. Income Support Division created its own guidelines, such as not providing formal responses, which affected your access application. Late in the process, the ATIPP Coordinator for the Department realized the error of Income Support Division's approach and started to manage your access request in the appropriate form. We note that you did receive more than 600 pages of responsive records, albeit 10 days after the date set forth in ATIPPA, 2015 for their production.

To be clear, this Office does not condone the approach followed by the Income Support Division in handling access requests and this perspective has been made clear to the Department. It is unfortunate that the stress and frustration to trigger a change in the Department has fallen on you. With that said, we do believe the Department is committed to change. In its submission to us on this matter, the Department stated:

It is important to note that the department has changed its process so that requests for Income Support files received through the ATIPP portal will now be processed as a formal ATIPP request unless permission is given by the applicant to close the ATIPP request and open an informal request.

This Office appreciates your position that the OIPC should release a formal report highlighting the improper procedure utilized by the Department. While we disagree on the release of a report, we do note that this letter, along with submissions from the Department, will remain on file in our Office as a commitment from the Department to change its approach to Income

Support access requests. As such, a failure to change by the Department will result in a report that highlights the failure by the Department to make the appropriate changes after the commitment to do so has already been made.

ATIPPA, 2015 provides in section 44(4) that where the Commissioner is unable to resolve a complaint informally the Commissioner shall conduct a formal investigation of the subject matter of the complaint where the Commissioner is satisfied there are reasonable grounds to do so.

In addition, section 45 of ATIPPA, 2015 provides as follows:

45.(1) The commissioner may, at any stage of an investigation, refuse to investigate a complaint where he or she is satisfied that

(a) the head of a public body has responded adequately to the complaint

For the reasons noted above, this Office relies on section 45 of ATIPPA, 2015 to not continue this investigation further.

I am required to provide you with this notice of the Commissioner's refusal to continue this investigation based on the reasons above and to advise of your right to appeal **the decision of Town of Salmon Cove** to the Supreme Court of Newfoundland and Labrador, Trial Division in accordance with section 52(3) which provides as follows:

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, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

In relation to the time limit for filing an appeal and the procedure to be followed I have attached a copy of section 52 and refer you to section 52(4) as follows:

52.(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

If you have any questions with respect to my comments, please contact me at (709) 729-4495.

Yours truly,

[signed]

Robert Keenan Access and Privacy Analyst

cc: The Department of Families and Affordability

[The letter attached a copy of Section 52 of ATIPPA, 2015 setting out the direct appeal provisions.]

Note: The public body identified in the notice of appeal rights, the Town of Salmon Cove, has no connection to this complaint. The public body that was the subject of the complaint is the Department of Families and Affordability.

ANNEX B — Correspondence with the Investigating Analyst, September to December 2025

This annex reproduces the exchange between David Hanrahan and Robert Keenan, Access and Privacy Analyst, Office of the Information and Privacy Commissioner, in complaint 0005-156-25-002, with one email omitted as noted below. Contact details have been redacted. Bold text marks passages relied on in this submission and does not appear in the originals.

From: David Hanrahan **Sent:** Friday, September 5, 2025 7:32 PM **To:** OIPC, Commissioner
Subject: ATIPPA Complaint – Request for OIPC Review

Dear OIPC,

I've attached my completed ATIPPA complaint form along with copies of my correspondence with the Department of Families and Affordability / Income Support, as well as my original ATIPP request from August 1, 2025.

I'm asking for your office's review because my request has not been processed under ATIPPA, and I want to ensure it's handled properly under the Act.

Thank you very much for taking the time to look into this. Please let me know if you need anything further from me.

Best regards, David Hanrahan

From: OIPC, Commissioner **Sent:** September 8, 2025 9:15 AM **To:** David Hanrahan **Subject:** RE: ATIPPA Complaint – Request for OIPC Review

Thank you for your email. This is to confirm we have received your complaint. It will be reviewed and you can expect to hear further from our Office within a week.

Office of the Information and Privacy Commissioner

From: David Hanrahan **Sent:** Monday, September 15, 2025 6:06 PM **To:** OIPC, Commissioner
Subject: Re: ATIPPA Complaint – Request for OIPC Review

Dear OIPC Office,

I am writing to request an update regarding my complaint, which your office acknowledged on September 8, 2025.

In addition, I would like to raise a related concern. On September 10, I received a 590-page PDF from the FAMA ATIPP Coordinator, who stated this was my "full file as requested." However,

despite asking multiple times, she has not confirmed whether this constitutes a formal ATIPP response. I have asked this question twice to the ATIPP Coordinator, as well as to a Regional Manager and an Inquiries Coordinator, but none have confirmed whether the documents I received represent an official ATIPP response.

Furthermore, the records provided appear to be incomplete. My request included specific items such as complete records of income support payments received, overpayments paid, and CRA tax assessments. None of these appear in the package provided. Instead, I was sent a large file of 590 pages with no explanation, no clear indexing, and with many of the items I requested missing.

To date, I have not received the formal documentation that should normally accompany an ATIPP response—for example, a proper confirmation notice, a time extension notice, or a cover/decision letter explaining what was disclosed, what was withheld, and under what sections of the Act. Other ATIPP offices have provided these documents, but in this case none were issued. This raises concerns that my request has not been processed in compliance with ATIPP requirements.

Could you please provide me with an update on the status of my complaint, and confirm whether the situation I have described falls within the scope of your office's review?

Thank you for your attention, and I look forward to your response.

Sincerely, David

From: Keenan, Robert **Sent:** Tuesday, September 16, 2025 12:38 PM **To:** David Hanrahan
Subject: RE: ATIPPA Complaint – Request for OIPC Review

Hi David,

I've been in touch with FAMA. They say they are still working on your access complaint and hope to have it properly dealt with in the next little while. **They acknowledge that your request wasn't handled as it should have been.**

Robert

Access and Privacy Analyst Office of the Information and Privacy Commissioner 3rd Floor, Sir Brian Dunfield Building Tel. (709) 729-4495

A detailed email sent on September 22, 2025 setting out the background to the request is omitted from this annex. It contains personal information about my circumstances that is not necessary to the matters before the Committee. Its substance is reflected in the correspondence that follows.

From: Keenan, Robert **Sent:** Friday, October 10, 2025 4:52 PM **To:** David Hanrahan **Subject:** OIPC File 0005-156-25-002

Hi Mr. Hanrahan,

Did you receive any records from FAMA related to the above-noted complaint?

Robert

From: David Hanrahan **Sent:** Tuesday, October 14, 2025 6:53 PM **To:** Keenan, Robert **Subject:** Re: OIPC File 0005-156-25-002

Hi Mr. Keenan,

Yes, I did receive records from FAMA, but only through informal disclosure, despite my written refusal to accept that process. The first package contained about 600 pages, followed by an additional 38 pages on September 17, after my complaint was filed.

As I explained in my detailed email of September 22, the records were incomplete, disorganized, and not provided as a formal ATIPPA response. I received no index, no explanation of redactions or withheld records, and no confirmation that the release met the requirements of the Act.

Could you please confirm whether you received my September 22 email with those details? Everything outlined in that message still stands, and there have been no changes or updates since then.

I continue to believe the use of informal disclosure in this case was improper under ATIPPA. Please let me know how OIPC intends to proceed with my complaint, including whether it will move forward to a formal investigation and Commissioner's Report.

Thank you, David Hanrahan

From: Keenan, Robert **Sent:** Wednesday, October 15, 2025 11:10 AM **To:** David Hanrahan **Subject:** RE: OIPC File 0005-156-25-002

Apologies Mr. Hanrahan. I did read the email on September 22nd but didn't remember it when I wrote last week.

I'm not sure how familiar you are with the ATIPP process, but in reading some of your concerns I think there's some expectations that don't meet the reality of the system.

First, there is no formal or informal ATIPP process. From my discussions with FAMA, they do not support this language and regret that it was used by the previous ATIPP coordinator who was working on your file. Once you make your ATIPP request, the department is bound to respond. What you received is the formal response from FAMA; our office would not be able to accept a complaint from you if you had not made a formal request to FAMA.

On our end, we do like to resolve matters informally. By that we mean we would prefer not to release reports if we can get the parties to agree on a resolution.

Second, the public body is not required to provide indexes or any kind of searchable structure for the records that are released. To be honest, in my three years here I've never seen an index provided by the public body to a complainant and I often see files where the records consist of several thousand pages.

Third, FAMA is not obligated to coordinate with other departments to collect all relevant records. Sometimes departments transfer requests to other departments if that department is more appropriate. But a access request to one department does not mean that this department now has to collect all responsive records from other departments. We often have complainants who make access requests to multiple departments asking for the same material just to make sure they have everything.

Moreover, CRA is a federal agency that the province has no jurisdiction over and it is not subject to ATIPPA. Any information from CRA would have to be acquired through CRA or through a federal access to information request.

Fourth, you were informed of the information that was redacted. In the letter to you dated September 17, 2025 it stated that information was withheld pursuant to section 40(1). SO any redactions in the material are sections 40(1) – personal information – material. These have to be redacted. It is mandatory. There are no other exceptions to access in the material provided to you.

Fifth, with respect to material that you expected to receive but did not, this is a very common complaint to our office. In general, it is impossible to prove a negative so the fact that you expected a certain record does not mean such a record exists or is in the possession of the public body. In this case, I will first assess the search conducted by FAMA. If that search is determined to be reasonable, which is the standard that FAMA must meet, then the onus shifts to you to make the case the additional records exist. For us to accept your position we need more than a belief or assertion that records exists. There needs to be some tangible evidence, such as you are already in possession of similar records.

I haven't gone through all the records. I'm going to ask FAMA to provide some clarity as to their search. Please keep in mind what is and is not part of the ATIPP process. I'll advise you of my perspective on the search conducted by FAMA and the use of section 40(1) over the next week or so.

Robert

From: David Hanrahan **Sent:** Wednesday, October 15, 2025 2:04 PM **To:** Keenan, Robert
Subject: Re: OIPC File 0005-156-25-002

Hi Mr Keenan,

Thank you for your reply and for taking the time to review my complaint further. I appreciate that you're asking FAMA for clarity regarding their search and the use of section 40(1), and that you'll be providing your perspective on this in the next week or so.

I'd like to provide some clarification and context regarding a few of the points you mentioned, from my perspective.

1. "Formal vs. Informal ATIPP Process"

I understand there is no "formal or informal" ATIPP process — once a formal request is submitted, the department is legally required to respond under the Act.

This was one of the main issues in my complaint: I never received any formal acknowledgment of my ATIPP request or an extension letter after the 30-day limit expired. I had to contact another coordinator just to ask for an update, and only then did I learn that my request had been "transferred to Income Support Enquiries."

When I raised this with FAMA, I was told by their ATIPP coordinator that "Income Support files are provided outside of the ATIPP process as an informal disclosure." This came directly from a senior FAMA coordinator.

In my view, this appeared to be an attempt to avoid the ATIPP process altogether and block my right to appeal to OIPC, since OIPC doesn't have jurisdiction over informal disclosures.

Only after I filed a complaint with OIPC did FAMA send me additional records—specifically, my income payment records from 2006 that were missing from the original 600-page package. Those records clearly showed I had actually overpaid by approximately \$3,500, which the Income Support manager has since corrected. I strongly believe these records would never have been released if I hadn't filed the OIPC complaint, and that's why I think they tried to label this as an "informal disclosure" in the first place.

I'm also currently awaiting CRA's ATIP response so I can cross-check the payment data, as I believe more overpayments may exist.

2. OIPC Informal Resolution vs. Department Informal Disclosure

I understand and appreciate that OIPC prefers to resolve matters informally between parties, rather than through a full report. But I think, in this case, a formal investigation and a Commissioner's Report are warranted.

This was not a simple misunderstanding about terminology — it appears to have been an intentional attempt by FAMA to bypass the ATIPP process entirely. There was:

- No formal acknowledgment letter for my request;
- Only a "transfer" to (Income Support Enquiries) rather than to another ATIPP coordinator;
- No extension letter after 30 business days;

- And later, I was told that my records would be released “informally” through an informal disclosure process, according to their internal policy — outside of the formal ATIPP process.

This pattern goes beyond poor communication — it undermines the principles and accountability mechanisms set out in the ATIPPA Act.

3. Duty to Assist and Coordination Between Departments

You mentioned that FAMA is not obligated to collect records from other departments. However, the Government’s ATIPP Policy and Procedures Manual outlines a broader expectation under the duty to assist:

Section 3.5: “Where a public body who receives a request knows that another public body has the records sought by the applicant, the request should be transferred rather than advising the applicant that there are no responsive records and closing the request. This is consistent with the duty to assist.”

Section 3.8: “Are some or all of the responsive records in the custody or control of another public body? If so, consultation with the other public body should be undertaken to determine coordination of responding to the request or transfer of the request.”

Section 3.10.1: “The ATIPP Coordinator should document internal consultations and any consultations with other public bodies and levels of government.”

In this case, FAMA clearly knew that another department has responsive records — that was confirmed in their own correspondence. Instead of transferring or consulting with those departments, they stated that such records were “not in the custody or control of FAMA,” effectively closing that part of my request.

Based on the ATIPP Manual, this appears to be a failure of the duty to assist under section 13 of ATIPPA.

4. CRA-Related Records

I also understand that CRA itself isn’t subject to ATIPPA. However, the records I requested were the CRA-related records held by the Province — for example, anything FAMA or Income Support sent to CRA for set-off, or any CRA correspondence they received about my file.

That would include things like annual CRA tax slips or set-off notices, which the department has confirmed they receive. These are the types of records I was referring to in my request.

I hope this clarifies my position.

Given everything above, I believe this complaint warrants a formal investigation and a Commissioner’s Report.

Thank you, David Hanrahan

From: David Hanrahan **Sent:** Tuesday, November 4, 2025 6:34 PM **To:** Keenan, Robert **Subject:** Follow-Up on ATIPP Complaint – Request for Status Update

Hi Mr. Keenan,

I am writing to follow up on my ATIPP complaint submitted to OIPC on September 5, 2025. I have not received any response from you since my last email on October 15, 2025, in which I outlined my ongoing concerns and requested a formal investigation.

I would appreciate an update on the status of my complaint at your earliest convenience.

Thank you, David Hanrahan

From: Keenan, Robert **Sent:** Thursday, November 6, 2025 12:36 PM **To:** David Hanrahan
Subject: RE: Follow-Up on ATIPP Complaint – Request for Status Update

Hi Mr. Hanrahan,

I've gone through all the records and I've had some discussions with FAMA. I've also spoken to my manager about this file.

With respect to the records, I agree with the redactions that the Department made. There were not a lot – I think about 17 over 600 pages – and they were all appropriate as they contained personal information.

As an office, our biggest concern was with the process that FAMA followed, which you highlight below. For whatever reason, FAMA historically put requests like yours through a different process and acted as though ATIPPA, 2015. This was not proper and was a major challenge for you. They should not have done that. They have acknowledged their mistake to us and have advised that they would no longer do this.

For me, the issue was whether we should issue a report to highlight FAMA's mistake. There are pros and cons to this approach, but in the end it was decided that doing so would just be antagonistic.

As for the issue of getting records from other departments, the guidelines state that the file should be transferred to another department if that department is the more appropriate one. This would mean your entire ATIPP application would have been transferred, which is not what you would've wanted; you had the correct department. We do not expect departments to work together to complete requests if it is possible another department has information. Bureaucratically that is far too difficult. If you know that another department has records, it is incumbent upon you to also file an access request with that department.

In general, it is my recommendation that this matter be resolved informally. I know you would like a report written and I can't resolve this informally without your consent. But a report will not further this matter at this point.

Please let me know how you would like to proceed.

Robert

From: David Hanrahan **Sent:** Thursday, November 6, 2025 2:51 PM **To:** Keenan, Robert
Subject: Re: Follow-Up on ATIPP Complaint – Request for Status Update

Hi Mr. Keenan,

Thank you for your email and for reviewing the records and process.

While I appreciate that FAMA has acknowledged its mistake and advised that it will no longer handle requests in this way, I believe this issue warrants a formal report. As you even stated:

“For whatever reason, FAMA historically put requests like yours through a different process and acted as though ATIPPA, 2015. This was not proper and was a major challenge for you. They should not have done that.”

If that is the case, then the senior FAMA ATIPP Coordinator misled me when they stated that all Income Support files are released outside of the ATIPP process due to internal policy. I was stonewalled for over a month and was not permitted to speak with a manager to answer basic questions about the debt they claimed I owed.

I only filed a formal ATIPP request to obtain those answers, and even then, FAMA continued to rely on their “internal process.” It was only after I asserted my rights under ATIPPA and filed a complaint with OIPC that their approach changed.

This raises a serious concern: if they treated me this way, what happens to individuals who are less informed about their rights? This “internal policy” effectively allowed them to sidestep ATIPPA entirely, which undermines the purpose of the Act.

Additionally, I believe there may be an underlying reason why FAMA historically processed Income Support files outside the ATIPP process. In my case, the Department’s own Collections Division pursued an Income Support overpayment debt that was clearly statute-barred under section 24(8) of the Income and Employment Support Act and later referred that debt to CRA for set-off. When I questioned this, the Collections Director attempted to deflect responsibility, stating the issue “falls under Income Support” and that they “simply assume all debts are valid.”

This suggests that the Department may have been intentionally limiting access to Income Support records to avoid exposing the fact that many overpayment debts are no longer legally enforceable.

This concern is supported by multiple reports of the Auditor General, who has repeatedly highlighted problems with outdated or statute-barred Income Support debts. Despite these findings, it appears that Income Support continues to send debts as old as 20 years to CRA for collection, even though their own legislation and policy clearly set a strict six-year limitation on recoveries under the Income and Employment Support Act.

If that is the case, FAMA’s decision to handle Income Support records “outside ATIPP” was not only improper but may have served to shield ongoing non-compliance with statutory limitation periods. This makes a formal investigation and public report even more important to ensure

accountability, transparency, and fairness, particularly for vulnerable individuals affected by this practice.

For that reason, I believe a formal investigation and Commissioner's Report is necessary—not to be antagonistic, but to ensure accountability, prevent recurrence, deter other departments from engaging in similar practices and uphold the integrity of ATIPPA, 2015.

I do not consent to informal resolution and respectfully request that this matter proceed to a formal report.

Thank you for your time and consideration.

Sincerely, David Hanrahan

From: David Hanrahan **Sent:** Monday, November 17, 2025 3:27 PM **To:** Keenan, Robert
Subject: Follow-Up on ATIPP Complaint – Request for Status Update

Hi Mr. Keenan,

I am following up on my email of November 6, 2025, in which I confirmed that I do not consent to informal resolution and requested that my complaint proceed to a formal investigation and Commissioner's Report.

I have not received an update since then and just wanted to ensure that my file is still being actively processed. Whenever you are able, I would appreciate an update on the status of my complaint and how OIPC intends to proceed.

Thank you for your time.

Sincerely, David Hanrahan

From: Keenan, Robert **Sent:** Monday, November 17, 2025 3:29 PM **To:** David Hanrahan
Subject: RE: Follow-Up on ATIPP Complaint – Request for Status Update

It is. I'm just finishing my thoughts to management. **They will determine whether this will go to a report.**

Access and Privacy Analyst Office of the Information and Privacy Commissioner

From: David Hanrahan **Sent:** Monday, November 24, 2025 10:20 AM **To:** Keenan, Robert
Subject: Follow-up on ATIPP Complaint – Request for Status Update

Hi Mr. Keenan,

I am writing to follow up on your email of November 17, in which you indicated you were finalizing your recommendations to management regarding whether this matter would proceed to a formal investigation and/or report.

As I have not yet received any further update, I would appreciate clarification on the current status of my complaint and the decision made by your office.

Given the time that has now elapsed since the informal resolution stage concluded, I would be grateful if you could advise whether OIPC intends to proceed with a formal investigation and report, or if a decision has been made not to issue one.

Thank you for your time, and I look forward to your response.

Sincerely, David Hanrahan

From: Keenan, Robert **Sent:** Monday, November 24, 2025 11:15 AM **To:** David Hanrahan
Subject: RE: Follow-up on ATIPP Complaint – Request for Status Update

Good morning Mr. Hanrahan,

Nothing has been finalized yet regarding whether to issue a report for your complaint or not. **To be clear, no one is saying the Department handled things properly, at least in the beginning. And that will be made clear to the Department regardless of how this file is concluded.**

With respect to formal and informal, we will be proceeding with a formal response in this matter as you will not agree to an informal solution. However, there are more ways to resolve a file formally than by issuing a report. That is what we are considering.

Robert

From: Keenan, Robert **Sent:** Friday, December 5, 2025 4:15 PM **To:** David Hanrahan **Cc:** Camizzi, Trista, Department of Families and Affordability **Subject:** OIPC File 0005-156-25-002
Attachment: Section 45 Letter to Complainant 0005-156-25-002.docx (118 KB)

Good evening Mr. Hanrahan,

Please find attached a letter from the OIPC setting forth our conclusions with your complaint.

If you have any questions, please reach out at your convenience.

Robert Keenan

[The attached letter is dated December 2, 2025 and is reproduced at Annex A. It was delivered by this email at 4:15 PM on December 5, 2025.]

ANNEX C — Correspondence Following the Request for Supervisory Review, December 2025

This annex reproduces the exchange following my request that the Commissioner review the closure of complaint 0005-156-25-002. Andrew J. Collins is the Senior Access and Privacy Analyst and manager of the OIPC's investigations branch. Contact details have been redacted. Bold text marks passages relied on in this submission and does not appear in the originals.

From: David Hanrahan **Sent:** Saturday, December 6, 2025 6:23 PM **To:** OIPC, Commissioner **Cc:** Keenan, Robert **Subject:** Request for Commissioner Review – Refusal to Issue Report (File 0005-156-25-002)

Dear Commissioner Hatfield,

I am writing to respectfully request a supervisory review of the decision issued by your Office on my access complaint (OIPC File 0005-156-25-002) concerning the Department of Families and Affordability (Income Support Division).

On December 5, I received notice that the investigation would not proceed further under section 45(1)(a), and that no Commissioner's Report would be issued. I am requesting that you review this outcome for the following reasons:

1. The refusal is grounded in the conclusion that the Department "responded adequately," yet the findings in OIPC's own letter indicate:
 - the Department used an improper and unauthorized "internal process" for years;
 - my request was handled outside ATIPPA for most of the response period;
 - statutory deadlines were not met;
 - I received no proper acknowledgment, no extension notice, and no formal processing until late in the process.

These circumstances do not meet the threshold of an "adequate response" under ATIPPA.

2. **The letter indicates that a report was not issued because it would be "antagonistic." With respect, this is not a statutory ground for refusing a formal report, nor is it consistent with the independence expected of an oversight body. The public interest in transparency should outweigh the Department's discomfort.**
3. The issue identified by OIPC is systemic, not isolated. Your Office acknowledged that "for many years, the Department was transferring requests to Income Support, which would not follow ATIPPA procedures." A systemic practice of bypassing ATIPPA requires public documentation to ensure accountability and prevent recurrence, especially given that this affects low-income and vulnerable individuals.
4. The Department's "commitment to change" is not enforceable. Without a public report containing findings and recommendations, there is no mechanism for follow-up, no public accountability, and no assurance that the practice will not re-emerge.

Given the seriousness and systemic nature of the issue, I believe a formal Commissioner's Report is necessary to uphold the purpose of ATIPPA, 2015 and to ensure that public bodies follow the law transparently and consistently.

I respectfully request that you review the analyst's determination under section 45 and consider issuing a formal report in the public interest.

Thank you for your time and consideration. I would be grateful for confirmation that this request has been received.

Sincerely, David Hanrahan

From: Collins, Andrew **Sent:** December 9, 2025 1:31 PM **To:** David Hanrahan **Cc:** Keenan, Robert **Subject:** RE: Request for Commissioner Review – Refusal to Issue Report (File 0005-156-25-002)

Mr. Hanrahan:

By way of introduction, my name is Andrew Collins and I am the manager of the OIPC's investigations branch. You have asked the Commissioner to review the decision to close your file without a report, under section 45 of ATIPPA, 2015.

I want to clarify that although the letter came from Mr. Keenan, all decisions to close a file via section 45 are made with the Commissioner's approval. Before closing your file, the Commissioner and I had considered the issues you have raised and concluded the Department had responded adequately to your complaint and a report was not necessary.

Regards,

Andrew J. Collins Senior Access and Privacy Analyst Office of the Information and Privacy Commissioner

From: David Hanrahan **Sent:** Tuesday, December 9, 2025 6:53 PM **To:** Collins, Andrew **Cc:** OIPC, Commissioner; Keenan, Robert **Subject:** Re: Request for Commissioner Review – Refusal to Issue Report (File 0005-156-25-002)

Hi Mr. Collins,

Thank you for clarifying that the decision to close my complaint under section 45 was made with the Commissioner's approval. I appreciate the response, but I am struggling to understand the reasoning behind the decision not to issue a public report, given the nature and scale of what occurred.

In earlier correspondence, Mr. Keenan indicated that issuing a report "would be antagonistic" to the Department. To me, this suggests an oversight concern — that the OIPC may be prioritizing its relationship with the Department over transparency and public accountability. ATIPPA's purpose is clear: to expose systemic issues, ensure openness, and protect the public,

particularly vulnerable individuals. Avoiding a report because it may upset a department appears inconsistent with those principles. OIPC acknowledged in writing that there were “pros and cons” to issuing a report. The fact that OIPC recognized clear pros makes the decision even more difficult to understand.

Could you please clarify how the possibility of a report being viewed as “antagonistic” factored into the decision-making process? I am genuinely trying to understand how such a consideration aligns with ATIPPA’s transparency and accountability objectives.

As you know, the Department’s long-term use of an alternate “informal disclosure” process denied Income Support clients their legal rights under ATIPPA for many years. This was not a small error — it was a systemic practice affecting low-income individuals, seniors, and people with disabilities who may not understand the rights they were being asked to waive.

However, I think it is important to distinguish between how the Department behaves after OIPC becomes involved and how it behaves toward clients on its own. Before I filed my complaint, the treatment I experienced was extremely concerning. For over a month, I was stonewalled and given only fragments of information — never enough for me to understand the debt or challenge it. I was repeatedly told I “needed to call,” even after insisting on written communication. A team lead/policy analyst implied that I had asked “too many questions” and that they had “already been answered,” even though they had not. He then urged me to call so he could “answer all my questions,” which strongly suggested an effort to avoid putting anything in writing. I was denied access to a manager entirely, and the day after I filed my OIPC complaint, a manager immediately contacted me and advised me to “seek legal advice.” Shortly afterward, a regional manager reached out as well.

If this is how I was treated — someone who knows their rights and refuses to back down — I cannot imagine the impact on other Income Support clients: low-income individuals, seniors, people with disabilities, and others who may not understand the legislation or feel intimidated. These people would have simply accepted whatever they were told. This is why I remain concerned that the Department’s recent cooperative tone should not be taken as evidence that the matter has been adequately resolved, nor that a public report is unnecessary.

Given all of this, I am still trying to understand how the Department’s response can be considered “adequate,” and how choosing not to issue a report serves the public interest when the practice had existed for many years, it only stopped because I insisted on my rights, many others may have been impacted, potential privacy breaches may have occurred, and no public notice or accountability will result from OIPC’s decision.

I genuinely felt throughout this process that my concerns were seen as inconvenient rather than substantive, particularly when I did not agree to an informal resolution. My goal was never personal; it was to ensure transparency so others who may have been affected would know what happened.

I am asking you directly: can you please explain the rationale behind the decision not to issue a report, and how this outcome protects the public interest, given the seriousness and systemic nature of what occurred?

Understanding that reasoning would be appreciated.

Thank you for your time, David Hanrahan

From: Collins, Andrew **Sent:** December 11, 2025 11:13 AM **To:** David Hanrahan **Cc:** OIPC, Commissioner; Keenan, Robert **Subject:** RE: Request for Commissioner Review – Refusal to Issue Report (File 0005-156-25-002)

Mr. Hanrahan:

Our Office's rationale for closing your file without issuing a report is outlined in Mr. Keenan's letter (excerpted):

[The email reproduces four paragraphs of the Section 45 letter, set out in full at Annex A: that the coordinator realised the error late in the process and that more than 600 pages were produced 10 days late; that this Office does not condone the approach followed by the Income Support Division and that it is unfortunate the stress and frustration to trigger a change has fallen on the applicant; the Department's statement that it has changed its process; and that the letter and the Department's submissions will remain on file as a commitment, a failure to change resulting in a report.]

The Access to Information and Protection of Privacy Act, 2015 is remedial legislation and the Commissioner's powers to make recommendations are forward-looking. That is, we cannot change past practices but can make recommendations for improvements going forward. Through your complaint, and our investigation of your complaint, the Department of Social Supports and Well-Being has agreed to do the one thing we would have recommended: to stop processing access requests for information about income support files through its internal process, but to instead treat them as formal access to information requests with all of the rights afforded by ATIPPA, 2015. Further, the Department provided you with a response to your request. On that basis, this Office concluded the Department had responded adequately to your complaint.

As our investigation is closed, and the reasons for closing our investigation have been provided in our December 5, 2025 letter to you, we will not be commenting further.

Regards,

Andrew J. Collins Senior Access and Privacy Analyst Office of the Information and Privacy Commissioner

Note: The questions set out in the email of December 9, 2025 were not answered.

ANNEX D — Correspondence with the Department of Families and Affordability, August to September 2025

This annex reproduces the exchange between David Hanrahan and Trista Camizzi, Senior Access to Information Coordinator, Department of Families and Affordability, together with the email from the Department of Finance ATIPP office that prompted the Department's first acknowledgement of the request. Contact details have been redacted. Bold text marks passages relied on in this submission and does not appear in the originals.

From: ATIPP-FIN, Department of Finance **Sent:** Wednesday, August 13, 2025 12:41 PM **To:** ATIPP-FAMA **Cc:** David Hanrahan **Subject:** ATIPP Request Confirmation

Good day,

Can you confirm that a request from David Hanrahan was received on August 1st, 2025? I have cc'd the applicant—they are looking for an update on the status of this request as no acknowledgement letter has been received to date.

Confirmation Code: VCNEB9

Thanks, Katie

[Context: I received nothing from the Department of Families and Affordability after filing on August 1, 2025, and could not locate a contact for its ATIPP office. The only ATIPP coordinator contact I could find was at the Department of Finance. She wrote to the Department on my behalf and copied me. The Department's first communication with me followed 84 minutes later, twelve business days after the request was filed.]

From: Camizzi, Trista, Senior Access to Information Coordinator **Sent:** Wednesday, August 13, 2025 2:05 PM **To:** David Hanrahan **Cc:** Hart, Jeff **Subject:** RE: ATIPP Request Confirmation

David,

Your request was forwarded to Income Support Enquiries. I have copied Jeff Hart, he should be able to provide an update.

I apologize; I should have notified you of the transfer.

Kind regards,

Trista Camizzi | Senior Access to Information Coordinator Department of Families and Affordability

From: David Hanrahan **Sent:** Thursday, September 4, 2025 1:38 PM **To:** ATIPP-FAMA **Subject:** Re: ATIPP Request Confirmation

Trista,

I am writing regarding my ATIPP request submitted on August 1, 2025.

While I received an advisory response on August 13, 2025 under Section 15 of the ATIPPA, I have not yet received a final response or a formal notice of extension as required under Section 16 of the Act.

Section 16 clearly requires that a public body must provide either a decision on access or a written notice of extension within 20 business days of receiving a request. **That deadline has now passed (August 29, 2025), and I have not been provided with the required notice.**

I request that you provide me with:

1. A formal written response to my request as required by Section 16; or
2. A proper notice of extension citing the relevant provision of ATIPPA, with a new completion date.

If this matter is not addressed promptly, I will have no choice but to escalate it to the Office of the Information and Privacy Commissioner.

Thank you for your attention. I look forward to your immediate reply.

Kind regards, David

From: Camizzi, Trista, Senior Access to Information Coordinator **Sent:** Thursday, September 4, 2025 4:12 PM **To:** David Hanrahan **Subject:** RE: ATIPP Request Confirmation

David,

Your file has been compiled and there are approximately 600 pages of records. These records are currently being reviewed for any third-party personal information. We will provide them as quickly as we can.

Income support files are provided outside of the ATIPP process as an informal disclosure.

Please feel free to contact me for a status update in a few days. We appreciate your patience with this process.

Trista Camizzi | Senior Access to Information Coordinator Department of Families and Affordability

From: David Hanrahan **Sent:** Thursday, September 4, 2025 5:02 PM **To:** ATIPP-FAMA **Subject:** Re: ATIPP Request Confirmation

Trista,

Thank you for your update regarding my ATIPP request and the status of the file. I appreciate that the records are being reviewed.

However, I want to make it clear that my request was submitted through the official ATIPP portal and, as such, all records responsive to my request — including Income Support files — must be processed under ATIPP.

I expect that:

- The Income Support records be included as part of my ATIPP request.
- All applicable ATIPP rules, including timelines, redactions, and my appeal rights, be fully respected.
- **I politely decline any informal release if it limits my rights under ATIPP.**

Please confirm in writing that my request will be handled under ATIPP and that the Income Support records will not be released informally outside the process.

Thank you for your attention to this matter.

Sincerely, David

From: David Hanrahan **Sent:** Friday, September 5, 2025 8:46 AM **To:** ATIPP-FAMA **Subject:** Follow-Up on ATIPP Request – Immediate Response Required

Trista,

I am following up from the email I sent you yesterday, September 4, in response to your message. As of today, the statutory 20 business day deadline under the Access to Information and Protection of Privacy Act, 2015 has passed. I have not received a notice of extension as required by the Act.

This means that my request is now in a state of deemed refusal under the Act. In addition, your suggestion to release records “informally” instead of through ATIPP violates my right to have this request processed under the law, with all associated protections, timelines, and appeal rights.

For clarity, I will not accept any informal disclosure as a substitute for my formal ATIPP request. My request must be processed fully under ATIPP.

If I do not receive confirmation today that my request will be processed under ATIPP in full compliance with the Act, I will have no choice but to immediately file a complaint with the Office of the Information and Privacy Commissioner.

Please treat this matter with urgency.

Sincerely, David

From: Camizzi, Trista, Senior Access to Information Coordinator **Sent:** Friday, September 5, 2025 11:00 AM **To:** David Hanrahan **Subject:** RE: Follow-Up on ATIPP Request – Immediate Response Required

David,

It is our internal process to provide all income support records as an informal disclosure. This does not limit your ability to appeal to the OIPC nor does it change the way the records are redacted.

We are currently reviewing your file for third party personal information and will provide it to you as soon as possible.

We appreciate your patience.

Trista Camizzi | Senior Access to Information Coordinator Department of Families and Affordability

From: Camizzi, Trista, Senior Access to Information Coordinator **Sent:** Wednesday, September 10, 2025 2:27 PM **To:** David Hanrahan

David,

Your complete income support file has been attached. If you would like a hard copy please confirm your mailing address.

The following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act, 2015 (the “Act”) are as follows:

| Section 40 Disclosure harmful to personal privacy

40.

- (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy.

[The email then sets out the right to ask the Information and Privacy Commissioner to review the processing of the request under Section 42 within 15 business days, the contact information for that Office, and the right to appeal directly to the Supreme Court Trial Division within 15 business days under Section 52.]

If you have any further questions, please feel free to contact me by email at ATIPP-FAMA.

Regards,

Trista Camizzi | Senior Access to Information Coordinator Department of Families and Affordability

From: David Hanrahan **Sent:** Wednesday, September 10, 2025 8:07 PM **To:** ATIPP-FAMA

Dear Ms. Camizzi,

I have received the 590-page copy of my Income Support file via secure file transfer. **I am writing to clarify whether this represents the Department's formal response to my ATIPP request under the Access to Information and Protection of Privacy Act, 2015, or if this is an informal disclosure.**

As I have previously stated, I do not accept informal disclosure. I am exercising my right to have my request processed formally under ATIPPA, with all the protections and requirements the Act provides, including proper indexing, explanation of redactions, and a formal response letter confirming the scope of records provided.

Upon review, this disclosure is extremely incomplete and disorganized. Many handwritten entries are difficult to read, and some financial calculations appear informal or inaccurate.

Additionally, a significant amount of information I specifically requested is missing, including:

- Income support amounts sent to me during the years I was on the program
- Paystubs
- Income tax assessments
- Other records corresponding to the seven specific items I outlined in my ATIPP request

Instead of providing an organized formal response, the 590 pages appear to have been sent with the expectation that I will locate this information myself. This does not meet the requirements of a formal ATIPP response.

Please clarify whether this is the official ATIPP response. If it is not, I request that the Department provide a formal, complete, and organized response in accordance with the Act.

Thank you for your attention to this matter.

Sincerely, David Hanrahan

From: Camizzi, Trista, Senior Access to Information Coordinator **Sent:** September 17, 2025, via GNL Secure File Transfer **To:** David Hanrahan **Attachments:** FAMA-064-2025 - Response Letter.pdf; FAMA-064-2025 - Additional records.pdf; Final - 0941472.pdf

David,

Please see attached formal response letter from ATIPP request FAMA-064-2025.

There has been an additional 38 pages of records added as a result of a formal second review of your request. These are new screenshots and reports generated from our system and therefore were not a part of your original income support file.

We appreciate your patience while we completed this formal review.

Regards,

Attachment — Formal Response Letter, FAMA-064-2025, September 17, 2025

September 17, 2025

Dear Applicant:

Re: Your request for access to information under Part II of the **Access to Information and Protection of Privacy Act, 2015** [File #: FAMA-064-2025]

On August 1, 2025, the Department of Families and Affordability (FAMA) received your request for access to the following information: *[the seven enumerated categories of the request are then set out in full: records relating to overpayment or debt; communication and case file notes; financial condition report; CRA set-off referral; payment arrangement history; appeal or review options; and general administrative notes]*

I am pleased to inform you that a decision has been made by the Deputy Minister for Families and Affordability to provide access to some of the requested information. Please see the attached records.

The following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act, 2015 (the “Act”) are as follows:

| Section 40 Disclosure harmful to personal privacy

40.

- (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy.

The attached records package is your entire income support file. In addition, we have provided screenshots of the CRA interface as well as payment history, overpayment A/R activity, receipt and recovery printouts from your file. Please note that the A/R activity sheets do not show details from overpayments that have been previously paid off.

Income Support policies and procedures are available publicly at:
<https://www.gov.nl.ca/cssd/income-support/>

Records relating to items 3, 4 and 5 of your request regarding collections, payment arrangements, financial condition reports, CRA, etc are not in the custody or control of FAMA.

The primary purpose of ATIPPA is to increase transparency by providing access to original records; it is not to provide interpretations of, or draw conclusions from, the information in the records, to create new records, or to answer additional questions.

[The letter then sets out the right to ask the Commissioner to review the processing of the request under Section 42 within 15 business days, the contact information for that Office, the right to appeal directly to the Supreme Court Trial Division within 15 business days under Section 52, and the publication notice.]

Sincerely,

Trista Camizzi Senior Access to Information Coordinator

Note: The complaint to the Office of the Information and Privacy Commissioner was filed at 7:32 PM on September 5, 2025, eight and a half hours after the email above.

ANNEX E — Correspondence with the Collections Services Division, Government Modernization and Service Delivery

This annex reproduces the email from the Director of Collections relied on in the Background section of this submission. Contact details have been redacted. Bold text marks the passage relied on and does not appear in the original.

From: Pope, Gina, Director of Collections **Sent:** Wednesday, September 24, 2025 9:16 AM **To:** David Hanrahan

Mr. Hanrahan

The questions and concerns you have about the statute barred issues you raise below (and as per the attached email from yesterday) are related to when your file was with Income Support, prior to Collections Services becoming involved and should be addressed to them for clarification.

Collections Services operates under the premise that debts are collectible when assigned and we act accordingly.

Gina Pope Director of Collections

Collections Services Division Government Modernization and Service Delivery Government of Newfoundland and Labrador 2nd. Floor, West Block P.O. Box 8700 St. John's, NL A1B 4J6