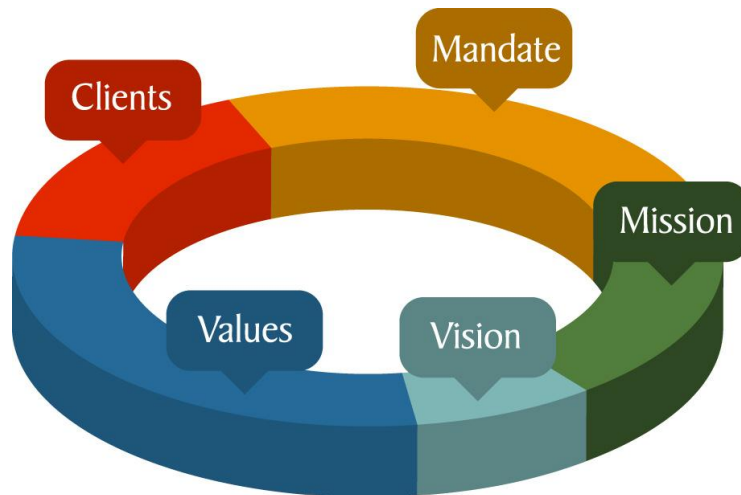




OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  

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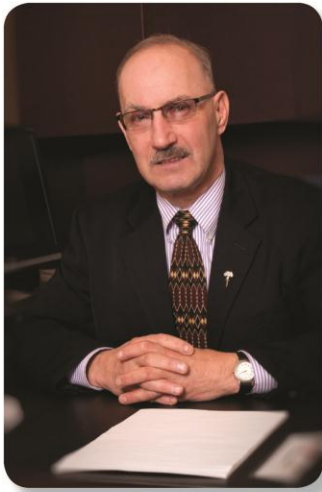
NEWFOUNDLAND AND LABRADOR



# ACTIVITY PLAN 2014-2017



## *Message from the Information and Privacy Commissioner*



The Office of the Information and Privacy Commissioner of Newfoundland and Labrador is accountable to the House of Assembly of the Province and to the people of Newfoundland and Labrador.

This Activity Plan has been prepared in accordance with Government's commitment to accountability as outlined in the *Transparency and Accountability Act* (the "*Act*"). The *Act* provides the legislative framework for strengthening accountability of government entities through multi-year performance-based plans and annual performance reports that are presented to the House of Assembly.

It will allow us to shape and measure our performance for the current year and will serve as a foundation for the future.

Our Office has been designated a Category 3 Government Entity under the *Transparency and Accountability Act*. As such, we are required to prepare an Activity Plan that sets a clear direction for our activities for the next three years, taking into account the legislative framework and mandate as well as our resources.

Our Office continues to have ongoing responsibility for the *Access to Information and Protection of Privacy Act (ATIPPA)* and the *Personal Health Information Act (PHIA)*. The access provisions of the *ATIPPA* were proclaimed in January 2005 and the privacy provisions proclaimed January 2008. The *Personal Health Information Act (PHIA)* was proclaimed into force on April 1, 2011.

*PHIA* is a law which establishes rules regarding how your personal health information is handled. We continue to cope with the current workload level, however, our ability to achieve the goals identified in this Activity Plan remains directly tied to our available resources. Additionally, for a small Office, our experience has been that unforeseen events and circumstances may require changes in Office priorities throughout the period carried by this Activity Plan.

Our Office, its organization and resources will continue to be aware of the changing access and privacy environment as well as emerging issues related to personal health information and will monitor related issues as we move forward.

As the Information and Privacy Commissioner, I recognize my obligation under the *Transparency and Accountability Act* and I am accountable for the preparation of this Plan and for the achievement of the objectives contained therein.

A handwritten signature in black ink, appearing to read "E. P. Ring", is written over a long, thin, slightly curved horizontal line.

Edward P. Ring  
Information and Privacy Commissioner

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## ***OVERVIEW***

The Office of the Information and Privacy Commissioner became fully operational and opened to the public on January 17, 2005. The Office was created by statute, *The Access to Information and Protection of Privacy Act (ATIPPA)*, which was proclaimed on January 17, 2005 for the access provisions. The privacy provisions were proclaimed on January 16, 2008.

The current Information and Privacy Commissioner, Edward Ring, was appointed to the position of Acting Information and Privacy Commissioner on December 17, 2007 and his appointment was confirmed by resolution of the House of Assembly on April 10, 2008. Mr. Ring was subsequently appointed as Acting Information and Privacy Commissioner on April 10, 2010. On June 24, 2010 Mr. Ring was re-appointed as Information and Privacy Commissioner for a further term of two years. He was appointed for a further two-year term on June 27, 2012.

The Commissioner is an independent Officer of the House of Assembly and reports directly to the Legislature through the Speaker of the House. The staff of the Information and Privacy Commissioner are members of the Public Service, Government of Newfoundland and Labrador.

The Office of the Information and Privacy Commissioner was created pursuant to Part IV.1 of the *ATIPPA*. The Office has oversight responsibilities under the *ATIPPA* and *PHIA*.

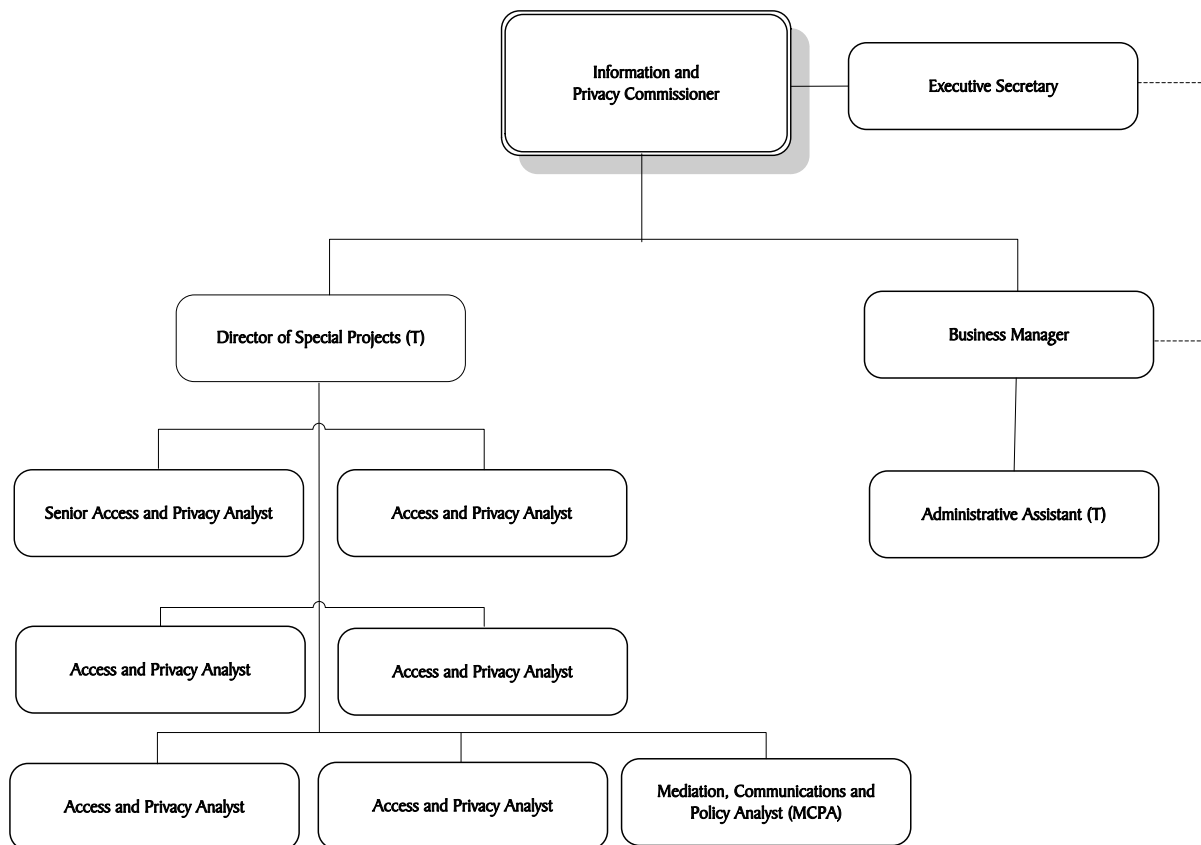
Under *ATIPPA*, the Office is responsible for protecting and upholding access to information and protection of privacy rights. The *ATIPPA* provides individuals with the right of access to information in the custody or control of public bodies, including provincial government departments, Crown corporations, municipalities, and health care and education bodies. The privacy provisions (Part IV) ensure that appropriate protocols are in place for the collection, use and disclosure of personal information by public bodies. There are approximately 430 public bodies that are responsive to *ATIPPA*. Under *PHIA*, the Office is responsible for upholding and protecting the access to personal health information and the protection of privacy rights of citizens. There are thousands of custodians of personal health information that are responsive to *PHIA*.

For the year ending March 31, 2015, the annual budget for the Office is \$1,178,100. Our website, [www.oipc.nl.ca](http://www.oipc.nl.ca) provides general information about this Office, instructions on how to submit a Request for Review and copies of our Reports in pdf format. In addition, our website contains appropriate forms and other resources as well as links to the legislation, fee schedule and all provincial and federal oversight offices, table of concordance, privacy policy, polices and procedures manual, inter-jurisdictional cooperation, list of annual events, eg. Right to Know Week, Data Privacy Day.

It should be noted that as we begin the preparation of the OIPC 2014-2017 Activity Plan, the government recently announced that a Review Committee will be struck in March 2014 that will be mandated to conduct a comprehensive review of the *ATIPPA*. It is anticipated that during this review period the OIPC will be heavily involved with this process and will be researching, preparing and submitting a comprehensive and in depth submission to the review committee. Additionally, it is envisioned that this Office will be involved in ongoing consultations throughout the review process. Depending on when the review is completed, Cabinet consideration concluded and the amendments are debated in the House of Assembly, considerable adjustment, work and research will be required by the Office in order to cater to the changes in the legislation that will result. The impact of the legislative review and subsequent changes to the *Act*, depending on the number and magnitude, will impact the Office throughout the entire Activity Plan period.

Additionally, carrying over into this planning cycle are a large number of court cases that have been initiated during the past several years and mainly as a result of Bill 29 being proclaimed into force in June 2012. As well, two cases are before the courts as a result of prosecutions under the *PHIA*.





The Office has a total of 12 staff (67% female, 33% male). These include: the Commissioner, Director of Special Projects, Senior Access and Privacy Analyst, five Access and Privacy Analysts, Mediation, Communications and Policy Analyst, Business Manager, Executive Secretary and Administrative Assistant.

The House of Assembly Management Commission approved the budget of \$1,178,100 for the Office of the Information and Privacy Commissioner for fiscal year 2014-2015. The details are noted below:

Salaries	\$938,200
Employee Benefits	\$4,500
Transportation and Communications	\$32,600
Supplies	\$10,300
Professional Services	\$40,000
Purchased Services	\$151,500
Property, Furnishings and Equipment	\$1,000
<b>TOTAL</b>	<b>\$1,178,100</b>

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## ***MANDATE***

The mandate of the Office of the Information and Privacy Commissioner is derived from the provisions of the *ATIPPA* and the *PHIA* and includes:

### **Under *ATIPPA*:**

- reviewing a decision, act or failure to act of a public body that relates to an access request or a request to correct personal information;
- investigating complaints about an extension of time for responding to a request or a fee required under the *Act*;
- making recommendations to ensure compliance with the *Act* and regulations;
- informing the public about the *Act*;
- receiving comments from the public about the administration of the *Act*;
- commenting on the information and privacy implications of proposed legislation and programs;
- commenting on the implications of record linkages and information technology on the protection of privacy;
- informing the head of a public body about a failure to adequately assist an applicant;
- making recommendations to public bodies or the minister responsible for this *Act* about the administration of the *Act*.

### **Under *PHIA***

- review a decision, act or failure to act of a custodian that relates to an access request for personal health information or a request for correction of personal health information;

- review complaints where an individual believes on reasonable grounds that a custodian has contravened or is about to contravene a provision of this *Act* or the regulations in respect to his or her personal health information or the personal health information of another;
- make recommendations to ensure compliance with the *Act*;
- inform the public about the *PHIA*;
- receive comments from the public about matters concerning the confidentiality of personal health information or access to that information;
- comment on the implications for access to or confidentiality of personal health information of proposed legislation schemes or programs or practices of custodians;
- comment on the implications for the confidentiality of personal health information of using or disclosing personal health information for records linkage or using information technology in the collection, storage, use or transfer of personal health information.

### ***LINES OF BUSINESS***

In delivering its mandate, the Office of the Information and Privacy Commissioner provides the following lines of business.

#### ***Investigations***

The Office reviews decisions, acts or failures to act by heads of public bodies at the request of applicants and third parties, with respect to access to information requests. The Office also investigates decisions to extend the timeframe to respond to access requests and decisions with respect to fees charged by public bodies for access to records. The Office also conducts reviews into the failure or refusal by a head of a public body or custodian to correct personal information or personal health information that is in its control or custody. The Office will conduct investigations based on complaints from citizens relating to the collection, use or disclosure of personal information and personal health information by a public body or custodian. Additionally, the Office will conduct comprehensive investigations into significant

privacy breaches at the request of a public body or custodian or as deemed appropriate by the Commissioner.

### ***Public Education***

The Office ensures that the public is aware of its rights to access information and personal health information and is aware of how it can exercise those rights. The Office maintains a large amount of information on its website for this purpose. As appropriate, the Office informs the public about these rights through public commentary and education programs aimed at explaining the administration and operations of the *ATIPPA*, the *PHIA* and our Office.

### ***Oversight***

The Office acts as an oversight body and comments on the implications for access to information or for protection of privacy of proposed legislative schemes or programs of public bodies and custodians.

## ***VALUES***

The OIPC has been in existence for nine years. The initial priority of this Office was to build an awareness of access to information principles and best practices both within provincial government institutions and within the larger public body sector. We were also required to build our Office capacity, including knowledge of the legislation, and of our general mandate and activities plus the key role of accessing and interpreting the relevant judicial and Commissioner rulings and precedents. The challenges in this latter area are many as there has been a worldwide expansion in laws covering access to information and privacy issues. In addition, there are growing challenges related to the changing environment of information technology, and the rapid expansion of surveillance practices throughout the world. It is a significant challenge for this Office to be aware and to remain current on advances in the information management field in order to provide citizens of Newfoundland and Labrador with the appropriate and best available assistance as they exercise their rights under the *ATIPPA* and the *PHIA*. These challenges will be significant especially in light of rapidly emerging technologies and the development of electronic health records.

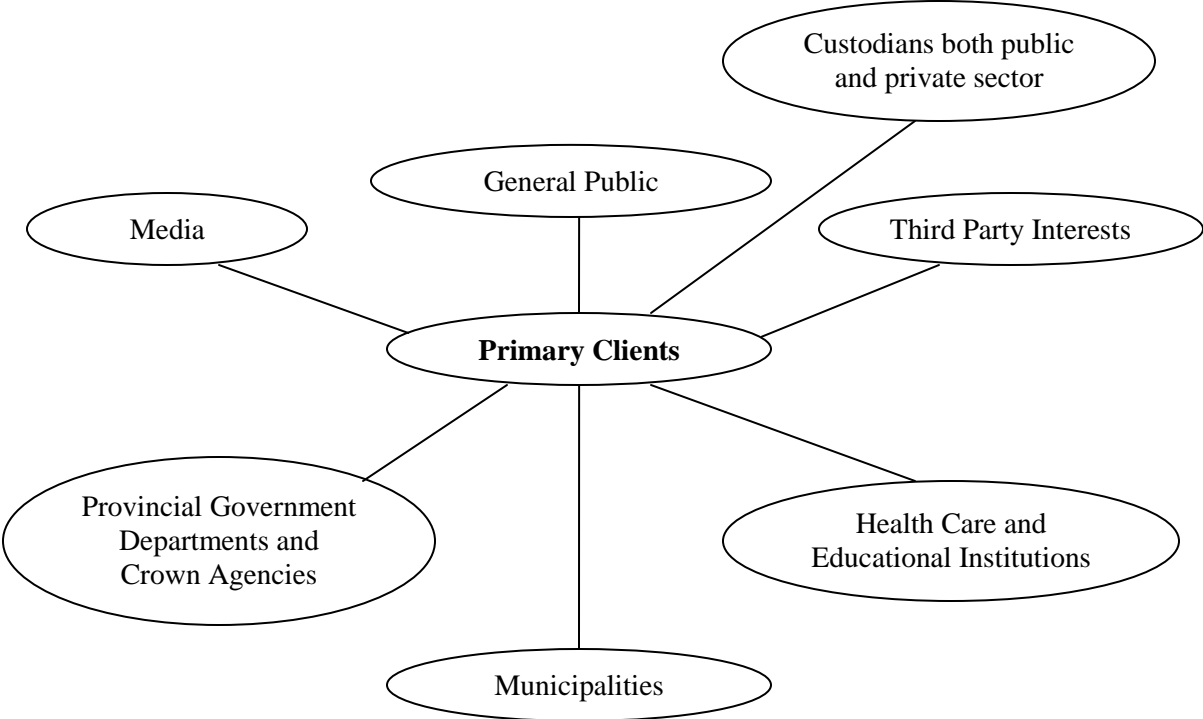
We have made good progress and we strive to continue this trend. Our main focus has been dealing with requests from the public for reviews of decisions by public bodies. The volume of these requests has increased over the past number of years and the complexity of some investigations has increased, requiring more research and investigative time to compete. We have also taken considerable time to provide advice and assistance to public bodies on access and privacy related issues. We have promoted education and awareness to the general public through presentations, preparation of brochures and media contact.

This Office values our role as an independent supporter and advocate for the access to information and protection of privacy rights of the citizens of the Province. Every effort is taken to ensure our integrity such that we are trusted by those we serve, as well as by public bodies and custodians who are bound by the laws we oversee. The following actions flow from these value statements and will guide the Office as we move forward.

Value	Action Statements
Independence	Each individual will conduct investigations independent of any influence.
Integrity	Each individual will ensure the provision of accurate, unbiased advice and recommendations.
Confidentiality	Each individual will exercise absolute confidentiality in accordance with the <i>ATIPPA</i> and <i>PHIA</i> .
Judgment	Each individual will use their professional knowledge and judgment in interpreting policies, practices and procedures to ensure compliance with the <i>ATIPPA</i> and <i>PHIA</i> .
Respect	Each individual listens to and considers the ideas and opinions of others and works collaboratively to achieve results.

**PRIMARY CLIENTS**

The Office of the Information and Privacy Commissioner defines its primary clients as those individuals who are the principle beneficiaries of the services which it provides. These clients are made up of several groups – those public bodies and custodians which have information and personal health information and those people or groups which have rights to access that information. They include the following:



<b>VISION</b>
Our vision is one where public bodies and custodians operate in a fashion that is transparent and accountable to the people, always in consideration of the privacy rights of the citizens of Newfoundland and Labrador.

## ***MISSION***

The mission statement of the Office of the Information and Privacy Commissioner outlines the priority focus over the next planning cycle. It represents our plan for the future and identifies various measures and indicators which will assist in the monitoring and evaluation process.

**Mission:** By 2017, the Office of the Information and Privacy Commissioner will have improved the capacity and effectiveness of the Office such that the citizens of the Province enjoy the full measure of the access to information and personal health information as well as the privacy rights which are guaranteed by the *Access to Information and Protection of Privacy Act* and the *Personal Health Information Act*.

**Measure:** Improved capacity and effectiveness of the Office to provide service and support decisions.

### **Indicators:**

- Reduced timeframes to conduct access reviews, increased number of informal resolutions and published review reports and recommendations.
- Increased awareness initiatives.
- Developed ability to deal with privacy complaints and personal health information breach complaints.
- Improved investigative methodology and continued with the development and production of a comprehensive policy and procedures manual to guide the work of the Office as it relates to *ATIPPA* and developed investigative methodologies to cater to *PHIA* issues.
- Researched and developed comprehensive policies and procedures to guide the work of the Office as it relates to the *PHIA*.
- Identified all governing bodies, colleges, boards and/or associations for the major custodian groups under *PHIA*.



- Conducted liaison/consultation and education meetings with the governing bodies/associations.
- Enhanced and updated the OIPC website as *PHIA* issues develop and mature.
- Enhanced and/or introduced follow-up for 2011 ATIPP public body survey.

## ***ISSUES***

### **Issue 1 – 2014 *ATIPPA* Legislative Review**

The Premier announced in February 2014 that a comprehensive review of the *ATIPPA* would be launched by the review committee being named in March 2014. The review is scheduled to be concluded by the end of 2014. The Office of the Information and Privacy Commissioner will play a significant role in the review process by researching, preparing and submitting a comprehensive and detailed written submission. Additionally, oral presentation to provide clarification and context will be delivered on an as required basis to the review committee. The Office will be involved in detailed consultations and discussions as the review process unfolds and submissions are made by public bodies, citizens and any other stakeholders or interested party. Depending on the outcome of the review, the Office may not be able to rely on previous decisions to assist in our reports but will have to conduct the appropriate level of research to help identify and solidify the position of the Office on any new section of the *Act*.

*Objective 1:* By March 31, 2015 the Office of the Information and Privacy Commissioner will have researched, prepared and submitted its work with respect to the *ATIPPA* review.

**Measure:** Researched, prepared and submitted its work with respect to the *ATIPPA* review.

**Indicators:**

- Jurisdictional scan conducted and all material compiled and reviewed.
- Conducted a number of staff sessions to compile information on various sections of the *ATIPPA* assigned to each staff member.

- Commenced compilation of submission.
- Participated in various consultation processes throughout the review period.
- Posted all OIPC generated material with respect to the legislative review on the OIPC website.

*Objective 2:* By March 31, 2016 the Office of the Information and Privacy Commissioner will have initiated action to progress the work of the Office as required pending the result of the *ATIPPA* legislative review.

*Objective 3:* By March 31, 2017 the Office of the Information and Privacy Commissioner will have continued action to progress the work of the Office as required pending the result of the *ATIPPA* legislative review.

## **Issue 2 – *Personal Health Information Act (PHIA)***

The *Personal Health Information Act* was proclaimed into force on April 1, 2011. There are thousands of custodians responsive to this legislation, both public and private sector. The OIPC is the oversight body legislated to ensure compliance with this legislation. The Office has been very busy based on the demands placed on it as a result. A number of highly technical investigations presented a significant learning curve for the Office. Additionally, a number of privacy breach investigations and subsequent prosecution proceedings also presented considerable challenges during the past several years resulting in priority changes impacting the work place of the Office.

It was anticipated that by March 31, 2014 the *PHIA* policy and procedures manual would be completed and published. Due to unforeseen events over the past few years and the requirement to change and shift priorities, this work has not been completed. We will continue to pursue the development of the *PHIA* policy and procedures manual.

*Objective 1:* By March 31, 2015 the Office of the Information and Privacy Commissioner will have continued to develop and define its draft *PHIA* policy and procedures manual.

**Measure:** Continued to develop and define its draft *PHIA* policy and procedures manual.

**Indicators:**

- Conducted periodic staff sessions to discuss trends and evolving procedures to deal with *PHLA* related issues, requests, breaches and complaints.
- Conducted a series of staff focus groups to flesh out policy and procedures.

*Objective 2:* By March 31, 2016 the Office of the Information and Privacy Commissioner will have continued work on the draft *PHLA* policy and procedures manual.

*Objective 3:* By March 31, 2017 the Office of the Information and Privacy Commissioner will have completed its *PHLA* policy and procedures manual.

**Issue 3 – Public Education**

The access provisions of *ATIPPA* were proclaimed in 2005 and the privacy provisions in January 2008. *PHLA* was proclaimed into force on April 1, 2011. The Department of Justice was initially responsible for the administration of *ATIPPA* and in 2013 that function was transferred to the Office of Public Engagement (OPE). The Department of Health and Community Services (HCS) is responsible for the administration of *PHLA*. As part of the roll-out for both the *ATIPPA* and *PHLA* both responsible organizations undertook extensive education and training initiatives. For *ATIPPA*, the OPE conducted training programs aimed at public bodies. In addition, a comprehensive policy and procedures manual was prepared and distributed to public bodies responsive to the legislation. Likewise, for *PHLA*, the HCS created a number of tools and resources to assist custodians in becoming *PHLA* compliant, as well as developed resources for custodians to educate themselves and train their staff.

This Office has been very supportive of these education and awareness programs and encourages both responsible organizations to continue their initiatives in this regard and to conduct program reviews and where necessary, upgrade their training programs as well as their policy and procedures manuals and resources.

The OIPC takes its responsibilities to educate the public about the *ATIPPA* and *PHLA* very seriously. Significant resources and effort have been invested by our Office to ensure, to the extent

possible, that the Province have received appropriate, necessary and timely information on the *ATIPPA* and *PHIA*.

*Objective 1:* By March 31, 2015 the Office of the Information and Privacy Commissioner will have completed as many presentations/meetings as possible on both *PHIA* and *ATIPPA* in various locations throughout Newfoundland and Labrador.

**Measure:** Completed as many presentations/meetings as possible.

**Indicators:**

- Co-hosted a major conference in Newfoundland and Labrador focusing on access, privacy, personal health information and records management.
- Analyzed and acted upon the feedback information received.
- Partnered with NLTA to launch a poster contest in the province to promote online privacy.
- Initiated the production of a quarterly newsletter to public bodies.

*Objective 2:* By March 31, 2016, the Office of the Information and Privacy Commissioner will have continued to conduct briefings/meetings and presentations in various locations throughout Newfoundland and Labrador.

*Objective 3:* By March 31, 2017, the Office of the Information and Privacy Commissioner will have continued to accomplish its public education mandate and will have identified further locations/opportunities/organizations to be targeted for educational purposes.