



*Office of the Information and Privacy
Commissioner*

Business Plan
2008 – 2011

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 measure and shape our performance and our goals for the current year and will serve as a foundation for the future.

Our Office has been designated a Category 2 Government Entity under the *Transparency and Accountability Act*. As such, we are required to prepare a business 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.

As our Office and its operations are to a large extent reactive to issues that are brought to us by the citizens of the Province, it is likely that this Business Plan will need to be revised and updated on a regular basis to account for changing responsibilities, volumes and complexities as we move forward.

It should be noted that on 16 January 2008 the privacy provisions of the *Access to Information and Protection of Privacy Act* (the "ATIPPA") were proclaimed.

We have attempted to account for these new responsibilities in the Plan. In addition, the new *Personal Health Information Act* has recently passed through the House of Assembly. The Office of the Information and Privacy Commissioner will be the oversight body for this legislation. As

the magnitude of demand and work for these new responsibilities unfold, significant revisions to our Business Plan will likely be inevitable.

Our Office, its organization and resources will continue to be aware of the changing access and privacy environment 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 goals and objectives contained therein.

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

The current Information and Privacy Commissioner, Edward Ring, was appointed to the position of Information and Privacy Commissioner on 17 December 2007 and his appointment was confirmed by resolution of the House of Assembly on 10 April 2008.

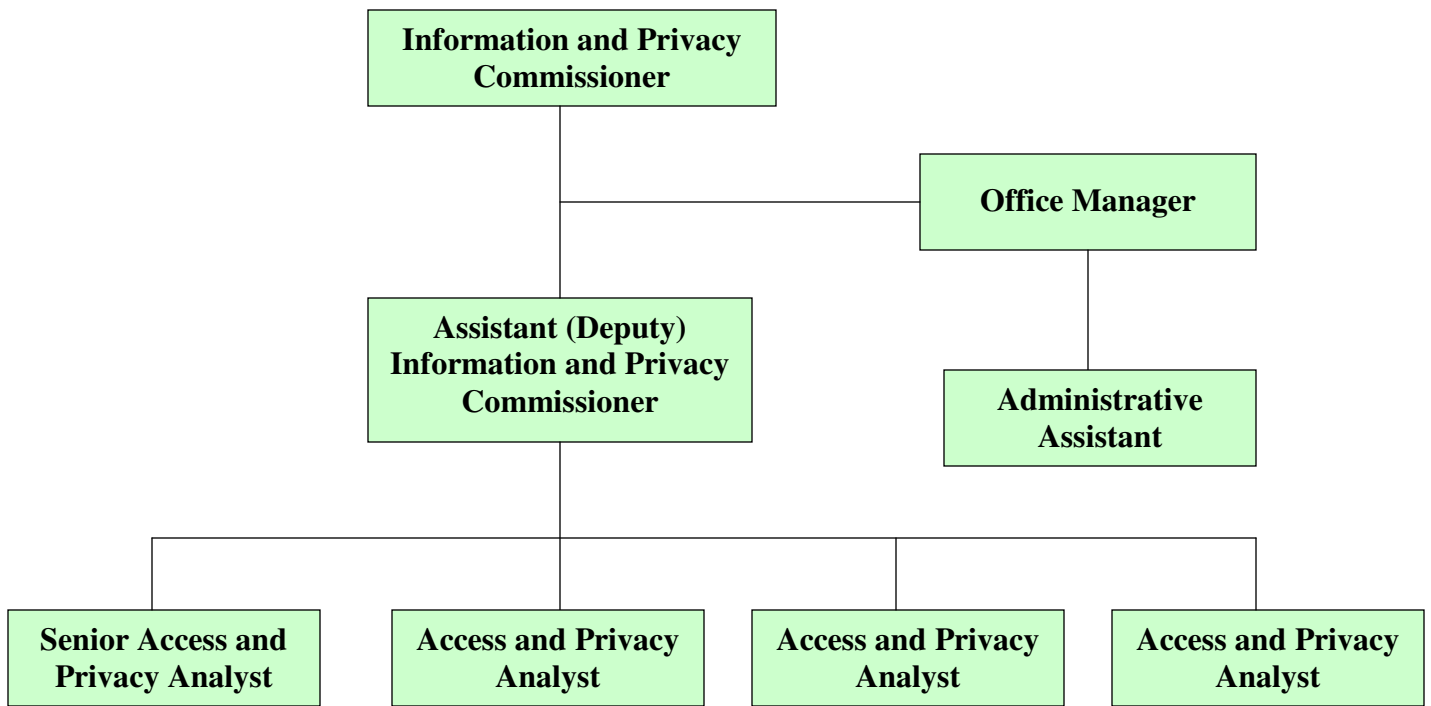
The Commissioner is an independent Officer of the House of Assembly and reports directly to the Legislature through the Speaker of the House. The staff of the Information and Privacy Commissioner are members of the Public Service, Government of Newfoundland and Labrador.

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 will soon have similar oversight under the *Personal Health Information Act* when it is proclaimed.

Under *ATIPPA*, the Office is responsible for protecting and upholding access to information and protection of privacy rights. The *ATIPPA* was proclaimed January 17, 2005 and provides individuals with the right of access to information maintained and in the control of public bodies, including provincial government departments, Crown corporations, municipalities, and health care and education bodies. The privacy provisions (Part IV) were proclaimed on January 16, 2008. These provisions ensure that appropriate protocols are in place for the collection, use and disclosure of personal information by public bodies.

For the year ending March 31, 2009, the annual budget for the Office is \$810,200. We are located on the 5th Floor, East Block of Confederation Building in St. John's and our telephone number is 729-6309. It should be noted here that this Office has recently identified and procured office accommodations outside the Confederation Building at 34 Pippy Place, and it is

anticipated that we will occupy the new space in July 2008. Our website, www.oipc.gov.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. It should be noted that our website will change in due course after we occupy the new office space outside the Confederation Building.



The Office has a total of 8 staff including: the Commissioner; one Assistant/Deputy Commissioner; one Senior Access and Privacy Analyst; three Access and Privacy Analysts; one Executive Assistant/Office Manager; and an Administrative Assistant.

The House of Assembly Management Commission approved the budget of \$810,200 for the Office of the Information and Privacy Commissioner for fiscal year 2008-2009. The details are noted below:

Salaries	\$510,800
Employee Benefits	\$6,500
Transportation and Communications	\$49,700
Supplies	\$8,500
Professional Services	\$85,000
Purchased Services	\$124,00
Property, Furnishings and Equipment	\$25,500
TOTAL	\$810,200

Contact Information

5th Floor, East Block
Confederation Building
P. O. Box 8700
St.John's, NL
A1B 4J6

Note: The Office will relocate to 34 Pippy Place in July 2008.

Telephone: (709) 729-6309
Facsimile: (709) 729-6500

Mandate

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

- giving the public a right of access to records;
- giving individuals a right of access to, and a right to request correction of, personal information about themselves;
- preventing the unauthorized collection, use or disclosure of personal information by public bodies;
- providing for an independent review of decisions made by public bodies under the *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*.

LINE 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 failure to act by heads of public bodies, with respect to access to information requests, including decisions to extend the timeframe to respond to access requests and decisions with respect to third party claims. The Office also conducts reviews into the failure to respond to access requests within the timeframes required by the *ATIPPA* and the failure or refusal by a head of a public body to correct personal information that is in its control. The Office will conduct investigations based on complaints from citizens relating to the collection, use or disclosure of personal information by a public body. Additionally, the Office will conduct comprehensive investigations into significant privacy breaches at the request of a public body or as deemed appropriate by the Commissioner. As the *Personal Health Information Act* unfolds, the investigation requests of the Office will similarly expand to deal with the very large number of public and non-public custodians of personal health information.

Public Education

The Office ensures that the public is aware of its rights to access information and is aware of how it can exercise those rights. 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* and our Office. A series of province-wide education / consultation sessions will be conducted in specific locations commencing in the September 2008 timeframe.

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.

VALUES

January 17, 2008 was the third anniversary of the proclamation of the *ATIPPA* (with the exception of Part IV). 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 also needed to build our own capacity within this Office including basic knowledge of the legislation, and of our general role 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 key challenge of this Office to be aware and to be current on all 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 information rights.

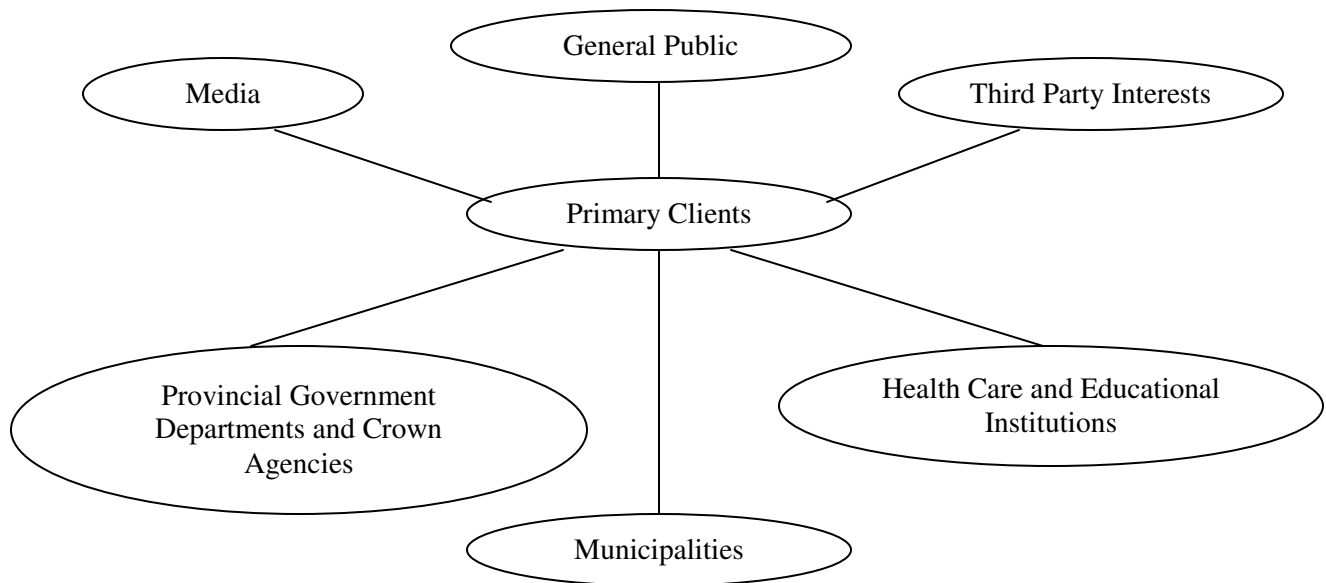
We made significant progress in this area early on in our mandate. Our main focus has been dealing with requests from the public for reviews of decisions by public bodies. The volume of these requests has increased dramatically over our initial two years. We have also taken considerable time to provide advice and assistance to public bodies on access and privacy related issues. Lastly, as time and resources have permitted, 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 support and arbitrator for the citizens of the Province. Every effort is taken to insure our integrity such that we are trusted to represent them in their dealings with public bodies. 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> .
Judgment	Each individual will use their professional knowledge and judgment in interpreting policies, practices and procedures to ensure compliance with the <i>ATIPPA</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 two groups – those public bodies which have information and those people or groups which have rights to access that information. They include the following:



Note: As the *Personal Health Information Act* evolves and is eventually proclaimed, our client base will be greatly expanded to include the hundreds of custodians of personal health information.

VISION

Our vision is one where public bodies operate in a fashion that is accountable to the people and transparent, 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 2011, 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 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 to provide service and support decisions.

Indicators:

- Reduced timeframes to conduct access reviews
- Increased the number of informal resolutions
- Published review reports and recommendations
- Increased awareness initiatives
- Increased ability to deal with privacy complaints
- Developed ability to deal with personal health information breach components
- Improved investigative methodology and the production of a comprehensive policy and procedures manual to guide the work of the Office.

ISSUES

Issue 1

Under the *ATIPPA*, the Commissioner's office attempts to resolve requests for review under Section 43 or complaints under Section 44 informally to the satisfaction of the applicant and the public body. Where an informal settlement is not successful within 30 days of receipt of the request, a formal review is conducted with a requirement that it be completed within 90 days of the request.

As of March 31, 2007 there are 30 active files for review relating to access to information requests. During the year ended March 31, 2007 the office received 101 Requests for Review compared to 55 Requests during the first fourteen months of operation of the Office ended March 31, 2006. This is an 83.6% increase. Based on these statistics, and our resources being severely stretched, authority was provided by the House of Assembly Management Commission to hire an additional Investigator in February. This brought the staffing level in addition to the Commissioner (then part time) to four including the Executive Director, two Investigators and an Office Manager.

To date, meeting the timeframes outlined in the *ATIPPA* has been difficult in some cases, especially those which require the examination of thousands of documents and/or the utilization of specialized knowledge of access law, practices and technology. In such cases, applicants have been understanding, however it is not desirable to experience such instances and every effort is being taken to improve our report timing. As the workload increases, additional resources will indeed be required to achieve this goal.

Accessing information and providing the review mechanism to applicants in a timely fashion is key to enhancing public awareness and confidence about accountability and transparency. Delays, particularly on the review side could result in diminished respect for the Office of the Information and Privacy Commissioner. Delays also reflect on the fundamental right to know of the people of the Province.

With the proclamation of the privacy provisions of the *ATIPPA* in January 2008, our resources have been stretched even further. The pressure has been somewhat reduced by the hiring of an additional investigator in 2008 which was previously approved by the House of Assembly Management Commission. At this point, we can only speculate on the level of privacy related activity which will ultimately be required of our Office. However, based on activity in other provincial jurisdictions, we expect it to be very demanding. In the meantime, our Office is engaged in four very significant privacy breach investigations. The pending proclamation of the *Personal Health Information Act* will significantly place further demands on the Office.

Goal: By 31 March 2011, the Office of the Information and Privacy Commissioner will have improved capacity to provide services and support decisions.

Measure: Improved capacity to provide service and support decisions.

Indicators:

- Increased capacity of the Office
- Processes for monitoring activity with respect to requests for review are enhanced
- Increased number of requests for review conducted within 90 days compared to the total number of review requests
- Increased number of requests for review which are resolved by informal processes compared to the total number of review requests

Objective 1: By March 31, 2009 the Office of the Information and Privacy Commissioner will have launched an initiative to develop a policy and procedures manual to guide and enhance the work of the Office.

Measure: Will have launched an initiative to develop a policy and procedures manual.

Indicators

- Staff sessions conducted to identify and discuss policy and procedure needs of the office.
- Lead person appointed to undertake this initiative.
- A series of discussion/decision sessions completed.
- Action initiated to assemble and publish the manual.

Objective 2: By March 31, 2010, the Information and Privacy Commissioner's office will have continued work on the policy and procedures manual including jurisdictional reviews and best practice discussions.

Objective 3: By March 31, 2011, the Information and Privacy Commissioner's office will have completed and published its policy and procedures manual.

Issue 2

During the two year period leading up to the proclamation of the access provisions of the *ATIPPA*, the Department of Justice which has responsibility for the administration of this *Act* conducted training programs aimed at informing all public bodies covered by the legislation about the access provisions of the *ATIPPA*. In addition, a comprehensive Policy and Procedures manual was prepared and distributed to those public bodies.

The Department of Justice conducted similar training with respect to the protection of privacy provisions of the *ATIPPA* prior to their proclamation in January 2008. This Office is very supportive of those efforts and encourages the Department of Justice to continually review and update their training programs as well as their Policy and Procedures manual.

Despite the Department's efforts, this Office has encountered a number of instances of inconsistency in the treatment of applicants and their access requests. Whatever the reason, this Office is often faced with attempting to resolve issues between applicants and public bodies which can and should be resolved through the exercise of good judgment, common sense and proper interpretation of the law.

This Office will continue to work with the Department of Justice and public bodies in the Province to promote effective training materials related to the *ATIPPA*. We will continue to correspond and meet with appropriate officials in public bodies to attempt to better explain the role and responsibilities of our Office and their obligations under the legislation. We firmly believe that our planned province wide information / consultation sessions will significantly increase and enhance the awareness and understanding of the *ATIPPA* and particularly the role, function and processes of the this Office for the public.

Goal: By 2011, the Office of the Information and Privacy Commissioner will have improved processes in place to increase awareness on the part of government departments and agencies, health and education bodies, and municipalities (public bodies) with respect to statutory requirements.

Measure: Improved Processes.

Indicators:

- Co-hosted a major conference in Newfoundland and Labrador focused on *ATIPPA*.
- Maintained a close contact with the Department of Justice with respect to interpretation of the provisions of the *ATIPPA*.
- Addressed any misinterpretation of the *ATIPPA* with the related public bodies and the general public.

Objective 1: By 31 March 2009 the Office of the Information and Privacy Commissioner will have conducted a review of the standard and quality of performance by all Public Body *ATIPPA* Coordinators as it relates to the processing of requests for information. (This will be limited to the public bodies with which the OIPC had interacted.)

Measure: Will have conducted a review of the standard and quality of performance by all Public Body *ATIPPA* Coordinators.

Indicators: Discussion/feedback sessions conducted.

Follow-up with public body as it relates to performance of duties under the Act.

Objective 2: By March 31, 2010 the Office of the Information and Privacy Commissioner will have continued liaison with the Department of Justice *ATIPP* Coordinating Office to identify coordinators for all public bodies.

Objective 3: By 31 March 2011 the Office of the Information and Privacy Commissioner will have completed a survey with all 467 public body *ATIPPA* Coordinators to determine the coordinator continuity and/or turn-over rate and make appropriate recommendations to the head of the public body.

Issue 3

Although one of the functions of the Office of the Information and Privacy Commissioner is to educate the public about the role and function of the OIPC and the *ATIPPA*, this activity has not been pursued except for the occasional article in the local paper or short radio interviews. This function is viewed by the OIPC to be an essential one and will be actively pursued as we move forward, particularly with the 16 January 2008 proclamation of the privacy provisions of the *ATIPPA* and the pending proclamation of the *Personal Health Information Act*.

Goal: By 31 March 2011, the Office of the Information and Privacy Commissioner will have implemented processes to educate the public on the *Act* and the role and function of the OIPC.

Measure: Implemented processes.

Indicators:

- Number and type of presentations/meetings conducted.
- Number of participants attending sessions.
- Amount of feedback received from the general public and public bodies.
- Number of requests for further/additional sessions.

Objective 1: By 31 March 2009 the Office of the Information and Privacy Commissioner will have completed a significant number of the planned 16-location town hall meetings.

Measure: Will have completed a significant number of meetings

Indicators:

- The number of meetings completed.
- Feedback information gathered.

Objective 2: By 31 March 2010, the Office of the Information and Privacy Commissioner will have continued to accomplish its goal of conducting briefings in all selected locations.

Objective 3: By March 2011, the Office of the Information and Privacy Commissioner will have concluded its initial public education programs and will have identified further areas/locations requiring briefings.