



ABOVE BOARD

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APSIM 2022

Mark your calendars for our upcoming Access, Privacy, Security and Information Management (APSIM) conference, being held April 26 – 28, 2022.

As with last year, this year's conference will be hosted virtually – an attempt to remove and reduce travel, financial, and time barriers relating to attendance. By doing so, we hope to increase attendance for professionals outside the St. John's Metro area. As always, this is a free conference aimed at Access, Privacy, Security and Information Management professionals, but is open to the public.

This year we are introducing a new subtheme with our APSIM conference: PIVOT – Privacy, Innovation, Virtual, Operations, Technology.

The last few years have added numerous challenges to the areas of access, privacy, security, and information management. Because of these challenges, adaptability and flexibility has become an invaluable skill. Our topics, workshops, and sessions for this conference will deal with practical solutions to new and ongoing issues, as well as address emerging issues.

This conference is presented in partnership with Memorial University and its conference services through the [Signal Hill Campus](#). This conference is built by key stakeholders working collaboratively, pooling resources and ensuring the quality of content that you have come to expect. In particular, OIPC would like to thank Memorial University, Eastern Health, College of the North Atlantic, Professional Municipal Administrators, the City of Mount Pearl and the Government of Newfoundland and Labrador (especially their ATIPP Office) for their contributions to the planning of the conference.

Conference registration is open and we encourage all interested parties to register at [Register - APSIM Conference \(gov.nl.ca\)](#).

This year's APSIM offers two days of sessions and one day of workshops, over the three day period; the official agenda is posted [online](#). Following please find details received as of publication time; watch the official APSIM website for additional details as they become available: [APSIM Conference 2022 – We Are Connected \(gov.nl.ca\)](#).

Keynotes

OIPC is pleased to announce Carole Piovesan as a keynote on Day 1 of the conference; she is managing partner at INQ Law, focusing her practice on privacy, cyber readiness, data governance and artificial intelligence (AI) risk management. On Day 2, OIPC is delighted to welcome Jason Besner, Director of Partnerships at the Canadian Centre for Cyber Security. Jason's group is responsible for managing strategic engagements, with Canadian and international partners, that have the greatest impact on cyber security for Canadians.

Workshops

Two workshops will be offered on Thursday, April 28, 2022. Lori Collins from the College of the North Atlantic is offering a workshop on *Creating IM Policies for Beginners* and Heather White, who is with the Public Service Commission, is offering a workshop on *Difficult Communication Dynamics, Mental Health and Dealing with Difficult Content*.

Other Sessions

- *Privacy Impact Assessments – Friend or Foe?* - Tracey Steele, Central Health and Ruth Marks, OIPC
- *Why are traditional enterprise security programs failing?* - Jared Perry, Cloud Security Practice Lead, Stratum Security
- *Privacy Tips and Tricks* - Don Hynes, ATIPP Coordinator/Privacy Analyst, House of Assembly
- *Duty to Document* - Lori Collins, CNA
- *How to Handle Access Requests for Beginners and Non-Coordinators* - Erin Drover, ATIPP Office and Kenessa Cutler, City of St. John's
- *Education and Careers Panel* – Kimberly Ryan, Meghan Keating, Christopher Gillespie, Koren Thomson, and Stephen Glassman

APSIM will also feature sessions with Kris Klein from nNovation LLP and Brittany Tibbo, Health Canada. Additional details will be published on the conference website as they become available.

Conference Planning

Planning a conference like APSIM takes a lot of work and collaboration; this collaboration ensures a solid conference agenda that inspires and offers something for everyone. OIPC would like to thank members of the various conference committees, including:

- Sonja El-Gohary and Erin Drover, ATIPP Office, Department of Justice and Public Safety;
- Maggie Noseworthy, Kaitlin Butler and Christy Walters, MUN;
- Lori Collins, College of the North Atlantic;
- Mallary McGrath, Eastern Health;
- Stacey Pratt and Darren Wall, City of Mount Pearl;

- Don Hynes, House of Assembly;
- Kelly Bull, Professional Municipal Administrators (PMA); and
- Ryan Kelly, Marine Atlantic.

Duty to Discuss – Episode 5 of OIPC Podcast

Episode 5 of our podcast, *Duty to Discuss*, recognizes Data Privacy Day! In this episode, Commissioner Harvey discusses matters relating to cyber security with Jake van der Laan, Chief Information Officer and Director of Information Technology and Regulatory Informatics with Financial and Consumer Services Commission of New Brunswick. Jake provides some tips and tricks to prevent putting your data at risk, as well as how far technology has come since he's been with the FCNB and where he sees cyber security going.

Responses to Commissioner's Reports – Required Content

A friendly reminder to public bodies that their response to Commissioner Reports **MUST** include the applicant's right to appeal. Public bodies know that they have to send applicants their response to the Report; however, these letters are occasionally lacking the details required by the legislation, which means OIPC has to ask Coordinators to re-send. This is time consuming for both parties and, for public bodies that send responses signed by the head or other senior staff, it can be embarrassing for the ATIPP Coordinator to get a signature on a second letter. Most importantly, the appeal timelines protect the rights of applicants, which is crucial to the entire process.

Section 49 of *ATIPPA, 2015* states:

- 49.(1) *The head of a public body shall, not later than 10 business days after receiving a recommendation of the commissioner,*
 - (a) *decide whether or not to comply with the recommendation in whole or in part; and*
 - (b) *give written notice of his or her decision to the commissioner and a person who was sent a copy of the report.*
- (2) *Where the head of the public body does not give written notice within the time required by subsection (1), the head of the public body is considered to have agreed to comply with the recommendation of the commissioner.*
- (3) *The written notice shall include notice of the right*
 - (a) *of an applicant or third party to appeal under section 54 to the Trial Division and of the time limit for an appeal; or*
 - (b) *of the commissioner to file an order with the Trial Division in one of the circumstances referred to in subsection 51(1).*

Section 49(3)(a) establishes the requirement that the written notice include the right of the applicant or third party to appeal to the Trial Division under section 54 and of the time limit for an appeal. To help avoid this issue in the future, OIPC suggests that Coordinators could cut and paste

all of section 49 into their decision letter, explain that this section establishes that there are 10 days to appeal, and copy that letter to OIPC so the assigned Analyst knows that it has been done and the clock has started on the 10 day appeals period.

ATIPPA, 2015 Privacy Breach Statistics January 1 – March 31, 2022

Between January 1st – March 31st, OIPC received 50 privacy breach reports from 23 public bodies under *ATIPPA, 2015*. This is a decrease from the 63 privacy breaches reported during the previous quarter.

One intentional breach was reported this quarter. An employee of the RNC used their access to the MRD system to query the license plate of a vehicle they were considering purchasing.

If any public body would like the OIPC to deliver training regarding privacy breaches, or any other topic relating to access or privacy, please contact our Office to arrange a time.

OIPC Updates

OIPC thanks Kimberly Ryan, who recently completed a six month secondment as an Access and Privacy Analyst on the OIPC's Advocacy and Compliance team. Kimberly has returned to her permanent position with the Department of Health and Community Services.

Amy Doyle, one of OIPC's Administrative Assistants and the friendly voice many of you heard when you called our Office, has taken a temporary position with the House of Assembly. We wish Amy all the best in her new role and note that her job is [posted Under Other Internal Employment Opportunities](#) for those eligible for internal competitions.

OIPC welcomes Meagan Cottreau as an Access and Privacy Analyst. Working on the OIPC's Investigations team, Meagan comes to us from private practice. We are delighted to welcome Meagan to the team!

OIPC has indicated its intent to appeal the recent decision in [Newfoundland and Labrador \(Justice and Public Safety\) v. Newfoundland and Labrador \(Information and Privacy Commissioner\) 2022 NLSC 59](#). OIPC issued a [news release](#) on the case, noting it would be appealing the Court's decision as a matter of public interest, to support the fundamental values of government transparency and accountability. Commissioner Harvey stated, in part:

If this ruling stands, there will be no protection against spurious denials of access or overbroad claims of privilege. It stabs at the heart of the very purpose of having an access to information law – independent oversight. Rather than attempting to tear down access to information through the courts, I call on the government to eliminate the unnecessary cost of this appeal, including the time and frustration of citizens seeking information. Amend the statute to provide even greater certainty that government is not above the law, thereby reassuring the public of its commitment to transparency and accountability.