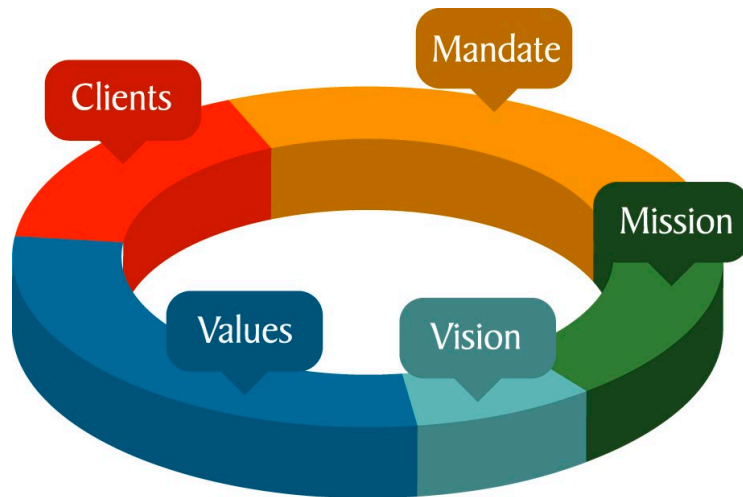




OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER

NEWFOUNDLAND AND LABRADOR



ACTIVITY PLAN 2023-2026



Message from the Information and Privacy Commissioner

The Office of the Information and Privacy Commissioner of Newfoundland and Labrador (OIPC) 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 allows us to shape and measure our performance for the current year and will serve as a foundation for the future.

OIPC is designated as a Category 3 Government Entity under the **Transparency and Accountability Act**. As such, OIPC is required to prepare an Activity Plan that sets a clear direction for activities for the next three years, taking into account its legislative framework and mandate. All planned activity will of course be impacted by the availability, or lack thereof, of future resources.

In the year preceding this planning period, workload in regard to most duties saw significant growth, including a 46% increase in the number of **Access to Information and Protection of Privacy Act, 2015** (ATIPPA, 2015) complaints received, and a 12.5% increase in the number of **Personal Health Information Act** (PHIA) complaints received. It is anticipated that

amendments to ATIPPA, 2015 stemming from the second five-year statutory review of ATIPPA, 2015 completed in June 2021 may occur during the time period covered by this Activity Plan. In addition, the second five-year statutory review of PHIA is currently ongoing and it is further anticipated that amendments to PHIA may also occur during the time covered by this Activity Plan.

OIPC, its organization and resources, will continue to reflect and respond to the changing access and privacy environment as well as emerging issues related to personal health information and will monitor and respond to related issues moving 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.



Michael Harvey
Information and Privacy Commissioner

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OVERVIEW

The Office of the Information and Privacy Commissioner (OIPC) was created by statute, the **Access to Information and Protection of Privacy Act (ATIPPA)**, which was proclaimed on January 17, 2005. The privacy provisions of ATIPPA were not initially in force, but were proclaimed on January 16, 2008. The **Personal Health Information Act (PHIA)** was proclaimed on April 1, 2011. The original ATIPPA was repealed and replaced by ATIPPA, 2015, which came into force on June 1, 2015.

Commissioner Michael Harvey was appointed in August 2019 for a six-year term. The Commissioner is an independent Officer of the House of Assembly and reports directly to the Legislature through the Speaker of the House. Staff members of the Office of the Information and Privacy Commissioner are part of the public service, Government of Newfoundland and Labrador. OIPC has oversight responsibilities under ATIPPA, 2015 and PHIA.

Under ATIPPA, 2015, OIPC is responsible for protecting and upholding access to information and protection of privacy rights. ATIPPA, 2015 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. There is also a right of correction of personal information held by public bodies. The privacy provisions (Part III) establish rules for the collection, use and disclosure of personal information by public bodies. ATIPPA, 2015 also provides significant education and advocacy roles for the Office. There are over 400 public bodies that are subject to ATIPPA, 2015.

It is a statutory requirement that ATIPPA, 2015 undergo a review every five years. The second statutory review of ATIPPA, 2015 was completed and that committee's [Report](#) was published in June 2021. If amendments are made to ATIPPA, 2015 during the period covered by this Plan, it could mean that the priorities outlined herein may shift.

Under PHIA, the Office is responsible for upholding and protecting rights relating to personal health information in the control or custody of custodians. These include the rights of access to and correction of personal health information and the requirement that personal health information must be protected appropriately by custodians. PHIA also establishes rules for custodians relating to the collection, use and disclosure of personal health information. There are thousands of custodians of personal health information subject to PHIA, including health professionals in private practice such as physicians, pharmacists and dentists, the new Provincial Health Authority (which comprises what were formerly the four Regional Health Authorities and the Newfoundland and Labrador Centre for Health Information), and many others.

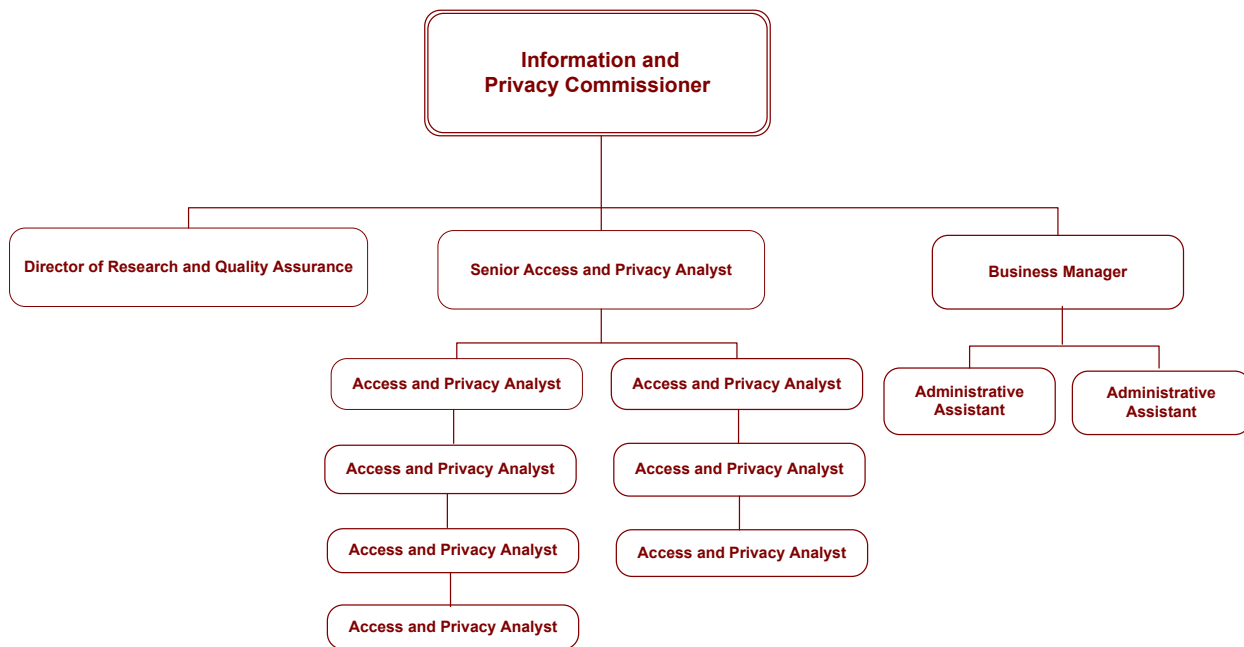
It is a statutory requirement that PHIA undergo a review every five years. No legislative changes resulted from the first PHIA review. The second review of PHIA was launched on December 31, 2022 and is currently ongoing. Similar to the previous review, stakeholders are again expending their time and effort in contributing to this review process, as is the current Review Committee. If recommendations for amendments to PHIA are forthcoming from the current review, those amendments may be made during the time period covered by this Activity Plan, which could mean that the priorities outlined in this Plan may shift.

Based on experience with past statutory reviews, it is expected that there will be significant demands on the resources of OIPC to work collaboratively with lead Departments as well as other major stakeholders to ensure that the necessary resources are updated or developed to reflect any changes. This will include developing and updating guidance materials, manuals, online training, etc.

Despite any changes which may ultimately be made to ATIPPA, 2015 or to PHIA, it is necessary for OIPC to continue with its oversight activities as currently prescribed.

Additionally, carrying over into this planning cycle are a number of court cases relating to ATIPPA, 2015 that have been initiated during the past few years which require significant time and resources. The outcome of these cases could also have a substantial impact on not only the interpretation of the statute, but the operation of OIPC.

For the year ending March 31, 2023, the annual budget for the Office was \$1,521,100. OIPC’s website, www.oipc.nl.ca, provides general information about the Office, information about the complaint process, and copies of Reports in pdf format. In addition, the website contains links to various forms for making a complaint, filing an access request, or reporting a privacy breach. The website also contains a number of resources and guidance documents, newsletters, information about promotional and education events presented or supported by the Office, the Twitter feed, information about past legislative reviews, as well as links to other provincial and federal oversight offices, and more.



The Office has a total of 13 staff (53.8% female, 46.2% male). The staff includes: the Commissioner; Director of Research and Quality Assurance; Senior Access and Privacy Analyst; seven Access and Privacy Analysts; Business Manager; and two Administrative Assistants.

The House of Assembly Management Commission approved the budget of \$1,451,500 for the Office of the Information and Privacy Commissioner for fiscal year 2023-2024. The details are noted below:

Salaries	\$1,208,100
Employee Benefits	\$4,500
Transportation and Communications	\$32,800
Supplies	\$6,700
Professional Services	\$75,000
Purchased Services	\$122,400
Property, Furnishings and Equipment	\$2,000
TOTAL	\$1,451,500

Contact Information:

P. O. Box 13004, Station "A"
 St. John's, NL
 A1B 3V8

Telephone: (709) 729-6309
 Facsimile: (709) 729-6500
 Email: commissioner@oipc.nl.ca

MANDATE

OIPC's mandate is derived from the provisions of ATIPPA, 2015 and PHIA.

Under ATIPPA, 2015 our mandate includes:

- being an advocate for the public right of access to information;
- being an advocate for protection of privacy;
- receiving privacy breach reports which public bodies must forward to OIPC on a mandatory basis and providing feedback and consultation to public bodies on their breach responses;
- educating public bodies about compliance with the access provisions of the Act, including the duty to assist, in order to facilitate timely and user friendly application of the Act;
- investigating complaints in relation to a decision, act, or failure to act of a public body that relates to an access to information request;
- conducting privacy investigations in response to complaints or at the Commissioner's own motion;
- receiving, investigating and making a final determination in relation to time extension requests from public bodies;
- receiving, investigating and making a determination in relation to a request from a public body that it be allowed to disregard an access to information request from an applicant;
- receiving an application from a person who has filed an access request to revise costs associated with the request and to make a final determination regarding the costs which may be charged by the public body;
- receiving an application from a person who has filed an access request to review a decision by the head of a public body not to waive the payment of costs associated with the request and to make a final determination in the matter;

- making recommendations to public bodies to ensure compliance with the Act and Regulations and to better achieve the objectives of the Act;
- informing and educating the public about the Act;
- monitoring and auditing the practices and procedures employed by public bodies in carrying out their responsibilities and duties under the Act;
- reviewing and authorizing the collection of personal information from sources other than the individual the information is about;
- reviewing privacy impact assessments prepared by public bodies;
- receiving comments from the public about the administration of the Act and about matters concerning access to information and the confidentiality, protection, and correction of personal information;
- commenting on the implications for access to information and protection of privacy of proposed legislation, programs, and practices of public bodies;
- 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; and
- making recommendations to public bodies or the Minister responsible for this Act about the administration of the Act.

Under PHIA, OIPC's mandate includes:

- investigating 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;
- investigating complaints where an individual believes on reasonable grounds that a custodian has contravened or is about to contravene a provision of PHIA or the

Regulations with respect to his or her personal health information or the personal health information of another, including privacy breaches;

- making recommendations to support compliance with PHIA;
- informing the public about PHIA;
- receiving comments from the public about matters concerning the confidentiality of personal health information or access to that information;
- commenting on the implications for access to or confidentiality of personal health information of proposed legislative schemes or programs or practices of custodians; and
- commenting 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, OIPC provides the following lines of business:

Investigations

OIPC conducts investigations under both ATIPPA, 2015 and PHIA. Under ATIPPA, 2015, OIPC receives and investigates complaints from applicants and third parties with respect to access to information requests; complaints from individuals about a failure to correct personal information; and complaints about an improper collection, use or disclosure of personal information. Under PHIA, OIPC receives and investigates complaints respecting the failure of a custodian to grant access to an applicant's own personal health information or to correct an applicant's personal health information. OIPC also investigates complaints under PHIA, including privacy breach complaints, from an individual who believes on reasonable grounds that any provision of PHIA or its Regulations has been or is about to be contravened. OIPC also investigates complaints about a fee charged for access to information under ATIPPA, 2015 and PHIA. Additionally the Commissioner may initiate an investigation on his or her own

motion. As part of the oversight function, OIPC also receives requests from public bodies under ATIPPA, 2015 for approval of an extension of time to respond to an access request or permission to disregard a request for access.

Advocacy and Compliance

In addition to conducting investigations stemming from complaints, ATIPPA, 2015 and PHIA establish many additional powers and duties for OIPC. The Commissioner uses the tools provided under the legislation to ensure that public bodies and custodians comply with their legislative requirements. These tools include conducting audits; receiving breach reports; initiating a special report to the legislature; commenting on the implications for access or privacy of proposed legislative schemes or programs; educating public bodies and custodians; and offering outreach to public bodies, custodians and other stakeholders such as groups and organizations representing the interests of custodians and public bodies. Public bodies and custodians also contact OIPC to seek advice, guidance and information about their responsibilities under the law.

The Office also strives to make the public aware of its rights in accordance with ATIPPA, 2015 and PHIA, including the rights of access to information, correction of personal information, and protection of privacy, including the right to file a complaint or appeal. Further, ATIPPA, 2015 gave OIPC a clear mandate to educate public bodies about the Act and to become an advocate for access and privacy.

OIPC makes information available through resources developed and posted on its website, as well as through presentations to stakeholders and other interested groups, via media interviews, as well as through the OIPC twitter account @OIPCNL. Members of the public, public bodies and custodians are invited to contact OIPC to seek information or request a presentation about any aspect of the operation of ATIPPA, 2015, PHIA and our Office.

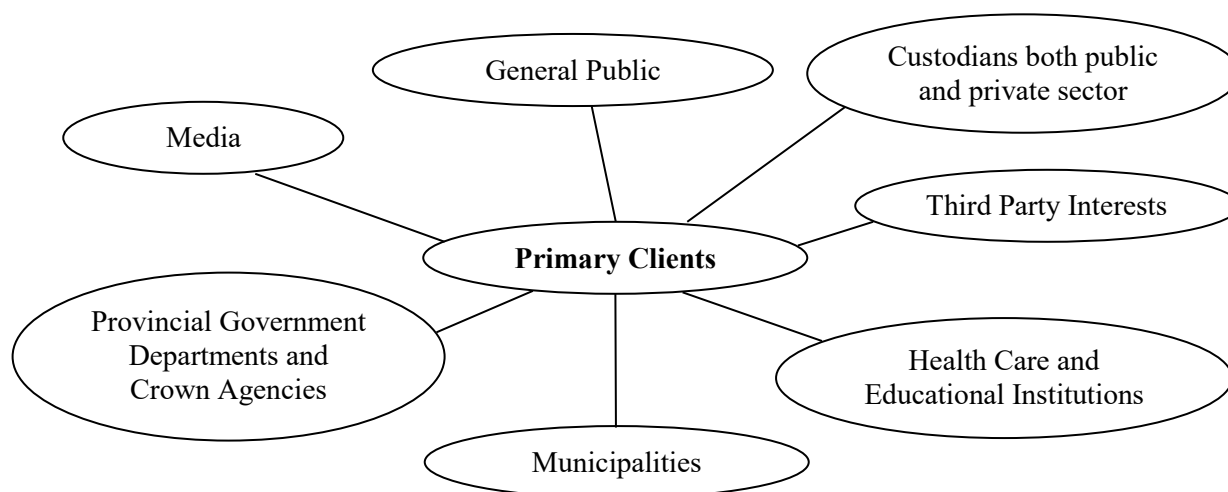
VALUES

OIPC values its 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 integrity such that we are trusted by those we serve, as well as by public bodies and custodians who are bound by the laws OIPC oversees. The following actions flow from these value statements and will guide OIPC moving forward.

Value	Action Statements
Independence	The conduct of investigations shall be independent of any conflict of interest or other inappropriate influences.
Integrity	Every effort will be made to provide timely, accurate, impartial and unbiased advice and recommendations and to treat information in our trust with the proper level of confidentiality.
Judgment	Professional knowledge and judgment will be exercised in interpreting policies, practices and procedures to ensure compliance with ATIPPA, 2015 and PHIA.
Respect	The ideas and opinions of others will be listened to and considered and staff of OIPC will work collaboratively with one another to achieve results.

PRIMARY CLIENTS

The Office of the Information and Privacy Commissioner defines its primary clients as the people of the province and the entities whose activities OIPC oversees, as well as any others who are granted rights or bear responsibilities under ATIPPA, 2015 and PHIA. These clients are made up of several groups, including:



VISION

Our vision is one where the explicit requirements as well as the values and philosophy underpinning ATIPPA, 2015 and PHIA are upheld through the legislative oversight efforts of this Office, with the goal that all public bodies and custodians subject to these laws operate at the highest level of compliance reasonably possible.

ISSUES

Issue 1 – Improving Business Practices

In our 2020-2023 Activity Plan, we set out to take steps to address what were then emerging issues with respect to the COVID-19 public health emergency. Over the past three years, we have taken steps to modernize OIPC's work practices. Over 2023-2026, OIPC will continue this objective of improving business processes and service delivery. As noted above, one of OIPC's lines of business is Investigations. This involves receiving complaints from members of the public under ATIPPA, 2015 and PHIA, investigating those complaints in compliance with the processes and timelines set out in legislation, and producing, where appropriate, public reports and recommendations. The public health emergency from 2020-2023, as well as developments in the areas of access and privacy, required the Investigations branch to adopt new practices that need to be reflected in a formal investigative process. The work of reviewing and updating OIPC's internal policies and procedures for the investigative process has already started and OIPC intends to complete this process and monitor results. Alongside this work, OIPC plans to review and, where necessary, revise other policies and procedures affecting the Advocacy and Compliance branch (which exercises our outreach and education mandate) and the Office as a whole to reflect best practices.

In addition to reviewing OIPC's procedures, OIPC will review public-facing documents that are part of the investigative process, including forms and guidelines for both complainants and public bodies responding to complaint investigations. Our intention for these revisions is to make documents more user-friendly as well as to ensure they reflect developments in access and privacy under ATIPPA, 2015 and PHIA.

Objective 1: By March 31, 2024, the Office of the Information and Privacy Commissioner will have reviewed, updated, created, implemented and monitored current and new policies, procedures and public-facing documents for OIPC.

Indicators

- Updated the current investigative and follow up process and implemented necessary changes to policies and procedures.
- Monitored effectiveness of any new policies and procedures.
- Finalized revisions to public-facing forms and guidelines.

Objective 2: By March 31, 2025, the Office of the Information and Privacy Commissioner will have continued to review, update, create, implement and monitor current and new policies, procedures and public-facing documents for OIPC.

Objective 3: By March 31, 2026, the Office of the Information and Privacy Commissioner will have continued to review, update, create, implement and monitor current and new policies, procedures and public-facing documents for OIPC.

Issue 2 – Digital Privacy Rights of Child and Youth Students

The children and youth of today are growing up within a digital world that continues to evolve and change at a rapid pace. They are more connected and spend more time online; and for many this connectivity extends to their lives within the education system. There is no doubt that digital technologies offer benefits and opportunities for young people to connect, learn and collaborate in new and innovative ways. However, even within an education setting, such digital technologies often come with safety and privacy risks. Our Office has identified the digital privacy rights of students within the education system as an area requiring special attention. To that end, we would like to focus our efforts on identifying, facilitating and supporting opportunities to enhance digital privacy rights, education and protections for child and youth students within the education system.

Objective 1: By March 31, 2024, the Office of the Information and Privacy Commissioner will have engaged with relevant stakeholders to identify one or more projects, initiatives

and/or other mechanisms that facilitate and support opportunities to enhance digital privacy rights, education and protections for child and youth students within the education system.

Indicators

- Identified relevant stakeholders.
- Communicated with relevant stakeholders.
- Received input from relevant stakeholders.

Objective 2: By March 31, 2025, the Office of the Information and Privacy Commissioner will have commenced one or more projects, initiatives and/or other mechanisms that facilitate and support opportunities to enhance digital privacy rights, education and protections for child and youth students within the education system.

Objective 3: By March 31, 2026, the Office of the Information and Privacy Commissioner will have evaluated and continued the implementation of one or more projects, initiatives and/or other mechanisms that facilitate and support opportunities to enhance digital privacy rights, education and protections for child and youth students within the education system.

Issue 3 – Emerging Technologies

We are living through a time when technology is rapidly evolving. Governments, other public bodies and health care providers are experimenting with new digital technologies in order to improve the services they provide while attempting to manage the risks associated with them. Developments in artificial intelligence, biometrics, and neuroscience technologies, previously thought of as existing only in science fiction are a practical reality and deserve focus and careful scrutiny, both in terms of individual privacy impacts and broader societal impacts. As with many technologies, there are efficiencies and benefits to be had. However, privacy, security, and ethical considerations and protections need to keep pace. As an oversight agency, our Office needs to be in a position to better understand these emerging technologies and with internal education and training, we plan to be in a better position to

caution, champion, and advocate for privacy, security, and ethical safeguards that aim to protect against the risks previous generations have only dreamed of.

Objective 1: By March 31, 2024, the Office of the Information and Privacy Commissioner will have identified emerging technologies, commenced internal education and training opportunities and, as appropriate, commenced advocacy and public education about them.

Indicators

- Identified emerging technologies.
- Identified education and training opportunities related to the identified emerging technologies.
- Begun education and training for emerging technologies

Objective 2: By March 31, 2025, the Office of the Information and Privacy Commissioner will have continued to identify and implement internal education and training opportunities relating to new emerging technologies, and continued and enhanced advocacy and public education initiatives, as appropriate.

Objective 3: By March 31, 2026, the Office of the Information and Privacy Commissioner will have utilized information learned from internal education and training opportunities in new and ongoing advocacy and public education initiatives as well as begun to inform related future planning and policymaking objectives of the Office.