



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Annual Performance Report 2017-2018

www.oipc.nl.ca
1.877.729.6309



September 28, 2018

Message from the Information and Privacy Commissioner

This Annual Performance Report has been prepared in accordance with Government's commitment to accountability as outlined in the *Transparency and Accountability Act*. This Act provides a legislative framework for strengthening accountability of government entities through multi-year performance-based plans and annual performance reports presented annually to the House of Assembly.

I am pleased to present the Office of the Information and Privacy Commissioner's Annual Performance Report for April 1, 2017 to March 31, 2018.

As Commissioner, I am accountable for the results reported herein and for any variances from the objectives outlined in the 2017-2020 Activity Plan.

A handwritten signature in blue ink, appearing to read 'Donovan Molloy'.

Donovan Molloy, Q.C.
Information and Privacy Commissioner

TABLE OF CONTENTS

Overview	1
Mandate	2
Lines of Business	4
Other Key Statistics	8
Highlights and Accomplishments.....	11
Report on Performance	16
Opportunities and Challenges.....	21
Financial Statement.....	23

OVERVIEW

In delivering its mandate, the Office of the Information and Privacy Commissioner (OIPC) provides the following lines of business:

- Investigations;
- Advocacy and Compliance;
- Oversight.

The OIPC oversees compliance with and protects and promotes rights and obligations established under the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)* and the *Personal Health Information Act (PHIA)*.

Number of Employees

The Office has a staff complement of thirteen permanent positions (69% female, 31% male).

Physical Location

The OIPC is located in the Sir Brian Dunfield Building, 2 Canada Drive, St. John's.

Budget

The 2017-2018 budget for the OIPC was \$1,337,200. Details of our revenues and expenditures are on page 23 of this report.

Information regarding the compensation received by the Commissioner can be found on our website at <http://www.oipc.nl.ca/compensation>.

MANDATE

The mandate of the OIPC is derived from the provisions of the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)* and the *Personal Health Information Act (PHIA)*.

Our *ATIPPA, 2015* 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 the OIPC on a mandatory basis and providing feedback and consultation to public bodies on their breach responses;
- educating public bodies about compliance in order to help prevent the unauthorized collection, use or disclosure of personal information by public bodies;
- 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* our 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 this Act or the *Regulations* in respect to his or her personal health information or the personal health information of another, including privacy breaches;

- making recommendations to support compliance with the Act;
- informing the public about the Act;
- 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, the OIPC provides the following lines of business.

Investigations

Under the *ATIPPA, 2015*, the investigative mandate of the Office expanded considerably. The Office is specifically mandated to conduct the following types of investigations:

- complaints from access to information applicants relating to a decision, act or failure to act by the head of a public body in response to an access to information request;
- complaints from access to information applicants about a cost estimate for an access request or a refusal to grant a waiver of costs to be charged for access to information;
- complaints about a failure or refusal by a head of a public body to correct personal information;
- complaints from members of the public relating to the collection, use or disclosure of personal information by a public body; and
- 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.

The Commissioner may also initiate, on his or her own motion, an investigation relating to the collection, use or disclosure of personal information by a public body.

Under *PHIA*, the Office investigates complaints from individuals that a custodian has denied a request for access to personal health information or a request for correction of personal health information. We also investigate complaints where an individual believes that a custodian has contravened or is about to contravene a provision of *PHIA* or the *Regulations* in respect to his or her personal health information or the personal health information of another.

Advocacy and Compliance

Under the *ATIPPA, 2015*, a number of new or expanded roles were prescribed for the OIPC. In order to fulfil this new and expanded mandate as efficiently and effectively as possible, it was determined that this role be made a separate and distinct line of business within the Office. This line of business incorporates the following parts of our mandate.

1) *Education (for the general public; public bodies under ATIPPA, 2015; and custodians under PHIA)*

The *ATIPPA, 2015* prescribes two specific mandates in relation to education – for public bodies, as well as for the general public. As part of this undertaking, a significant revision of the OIPC website with new tools and information for public bodies, custodians and the general public has been completed. New material is continually under development, with priority being given to issues that appear to be the most challenging for the public as well as public bodies and custodians.

The OIPC strives to ensure that members of the public are aware of their rights of access to information and protection of privacy, and how those rights are protected and supported. As appropriate, the Office informs the public about these rights through public commentary and education and awareness presentations aimed at explaining the administration and operation of *ATIPPA, 2015*, *PHIA* and our Office. Additionally, all Reports issued by the Commissioner under *ATIPPA, 2015*, and *PHIA* are published on

the OIPC website. The OIPC also uses its Twitter account to broaden public awareness of privacy and access to information issues.

The OIPC is very much engaged in education and training for public bodies. In this regard, we continue to issue quarterly newsletters and we continue to offer presentations to various audiences, including groups of Access and Privacy Coordinators and senior leadership within public bodies. We have also developed a wide variety of guidance documents to assist public bodies in interpreting the *ATIPPA, 2015*. We send these to Access and Privacy Coordinators by e-mail, discuss them in presentations, summarize them in our newsletter and post them on our website. We also present a conference (currently held at roughly 18 month intervals) to the entire access and privacy community, including information management and information technology professionals to share best practices and encourage collaboration and knowledge transfer.

2) *Audit*

An important new feature of *ATIPPA, 2015* is our audit function, which provides the OIPC with the broad mandate to audit the practices and procedures of public bodies related to any aspect of how they carry out their role and functions regarding the *ATIPPA, 2015*. To accomplish this we have developed in-house expertise based largely on intensive study of experiences from other jurisdictions, in particular, British Columbia. We also completed our second audit and initiated two others during this reporting period. The audit is an important oversight tool because it will allow us to identify compliance risks in such a way as to help public bodies avoid privacy breaches or other non-compliance incidents in the future, and to encourage and support best practices. Information about our audit program is available on our website.

3) *Privacy Impact Assessment (PIA) Review*

This is another new and important feature of *ATIPPA, 2015*. Specific circumstances are prescribed in *ATIPPA, 2015* for when the OIPC is required to review a PIA. Ministers of all departments or branches of executive government are now required to complete a PIA or preliminary PIA in conjunction with the development of programs or services. Public bodies sometimes request that the OIPC review a PIA or preliminary PIA even if not required by law, to assist in satisfying themselves that the program or service is in compliance with the *ATIPPA, 2015*. Information about our PIA expectations is available on our website.

4) *Privacy Breach Reporting*

Yet another new role prescribed by the *ATIPPA, 2015* is a requirement for public bodies to report all privacy breaches to the OIPC. This provides important information to the OIPC about privacy compliance issues, and it helps the OIPC to identify emerging or repeating patterns in privacy breach incidents. This allows us to tailor our approach by choosing timely topics for seminars, newsletters and new guidance documents.

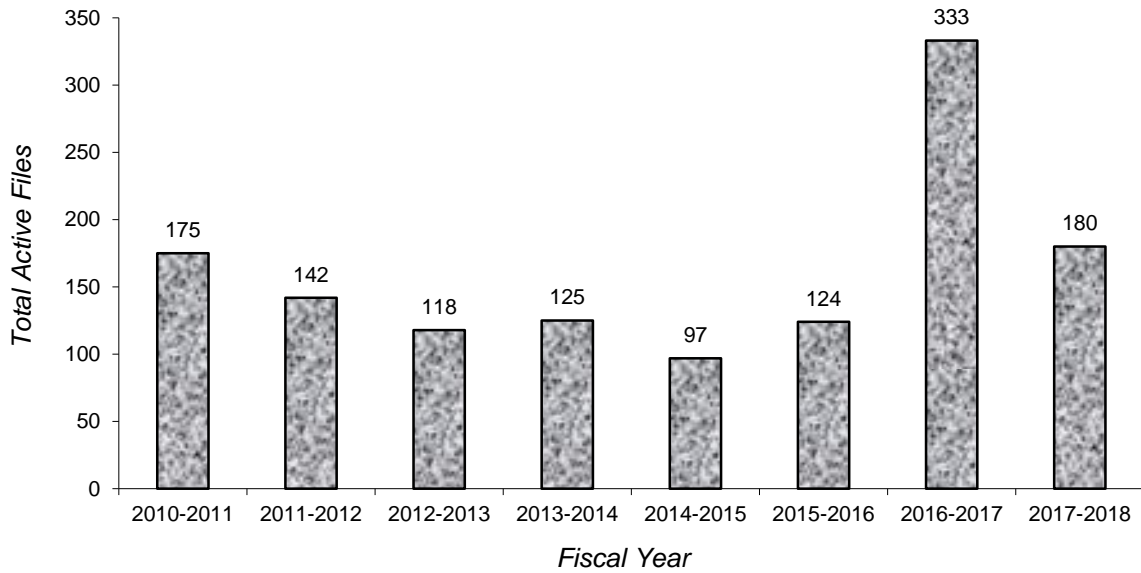
Oversight

The Office oversees compliance by public bodies with *ATIPPA, 2015* and custodians with *PHIA*. The Office has a wide variety of general oversight functions and mandates, outlined above under the “Mandate” section. These range from receiving and deciding on requests from public bodies for time extensions to reviewing and commenting on draft legislation where there may be implications for access to information or protection of privacy.

OTHER KEY STATISTICS

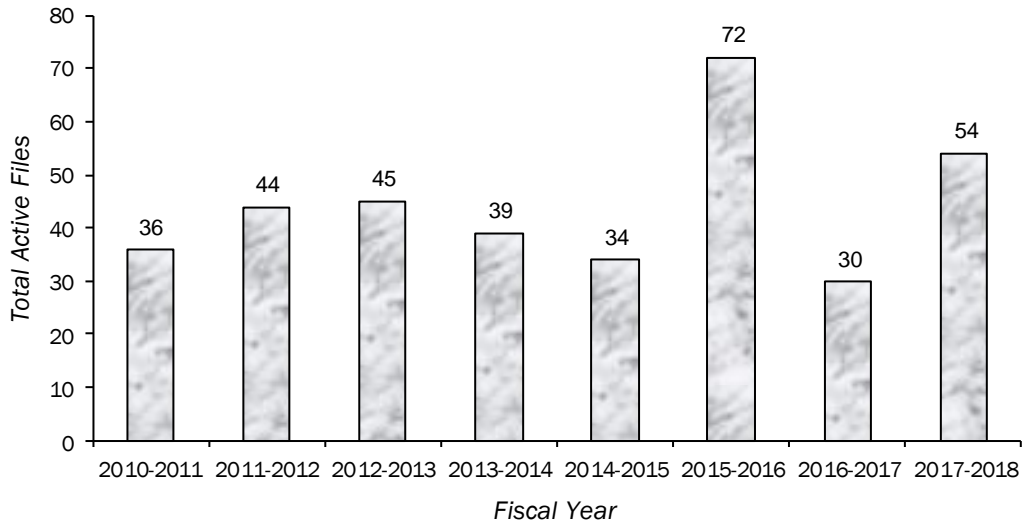
ATIPPA, 2015 Access

In this past year we have experienced a decrease in the number of access to information complaints pursuant to the *ATIPPA, 2015*, compared to our numbers from 2016-2017. The 2016-2017 numbers reflected a large number of individual complaints filed in relation to a request for disclosure of salary details, a matter currently before the Court of Appeal. The number of complaints in the current reporting year remains high from a historical perspective, representing the second-highest number of active files carried by this Office since it was established. This is a reflection of the fact that the number of access requests being filed to public bodies overall continues to increase, and it is clear that requesters are becoming more familiar with the legislation and how to use it, along with how to make a complaint if the response is not satisfactory. This number also includes complaints by third parties after notification that either their personal information or their business information may be disclosed to an applicant. The Office has a legislated time limit of 65 business days from the date a complaint is received to resolve the matter informally or produce a Commissioner's Report, a requirement we continue to meet. In most cases where Reports are issued, this is done prior to day 65, however complaints are typically resolved informally even sooner than that.



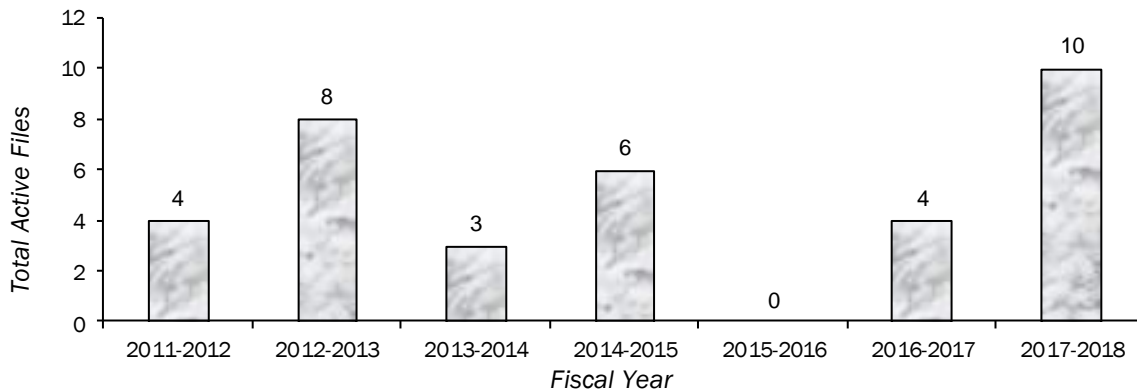
ATIPPA, 2015 Privacy

Privacy breach complaints continue to present a significant challenge for the Office, and like this year's number of active access complaints, the current number of active privacy complaint files represents the second-highest number since this Office was established. These investigations are often complex and time consuming. These investigations can require site visits and on rare occasions the engagement of technical experts. OIPC staff continue to build their expertise in privacy investigations in order to meet this challenge, through professional development opportunities and knowledge sharing.



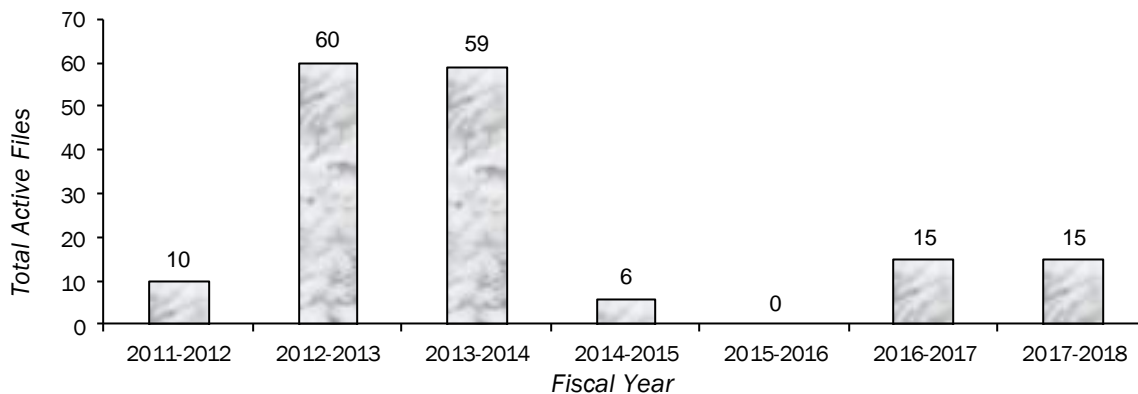
PHIA Access/Corrections Complaints

This is a relatively small part of the investigative workload of the OIPC. While the numbers tend to fluctuate from year to year, the 2017-2018 year has seen a peak of ten active files. In addition to the complaints received this year, we continue to receive a number of inquiries from custodians and members of the public about access to personal health information or correction of personal health information, and more often than not, the information and advice we provide results in the correct application of *PHIA*, thereby reducing the likelihood of complaints.



PHIA Privacy Complaints

As with *ATIPPA*, 2015 privacy investigations, *PHIA* privacy investigations are often very complex and technical. Many investigations require an understanding of electronic health records systems. On three occasions, the Office has been involved in investigations leading to prosecutions and convictions under the offence provisions of *PHIA*. Another such conviction was registered during this reporting period. These investigations consume considerable staff resources in order to ensure that the necessary evidence is presented to the Attorney General in order to warrant proceeding with a prosecution. This process also involves staff cooperation with the assigned Crown Attorney to ensure that relevant evidence is identified appropriately and that the Crown Attorney has access to subject matter expertise.



HIGHLIGHTS AND ACCOMPLISHMENTS

During the reporting period, the OIPC was engaged in a number of activities and events that directly and indirectly contributed to the accomplishment of the various mandates of the Office. A selection of these activities follows.

Date	Audience	Topic
5-Apr-17	Newfoundland and Labrador Housing Corporation - Labrador	Privacy Overview
7-Apr-17	Internal Auditors Association	Privacy Overview (including PIPEDA)
20-Apr-17	Research and Development Corporation Information Management Week	Privacy Overview
6-May-17	NL Pharmacy Board	PHIA Overview
10-May-17	Regina Access and Privacy Conference	Presentation by Commissioner Molloy
30-May-17	Canadian Association for Civilian Oversight of Law Enforcement	Privacy and Open Court Principle
15-Jun-17	Keyin Pharmacy Technician Students	PHIA Overview
13-Sep-17	Central Health Senior Leadership	Overview, Reasonable Search, Social Media
13-Sep-17	Central Health Risk Managers	PHIA Overview
19-Sep-17	English School District NL Leadership Happy Valley-Goose Bay	ATIPPA, 2015 Overview
20-Sep-17	English School District NL Leadership Corner Brook	ATIPPA, 2015 Overview
26-Sep-17	English School District NL Leadership Gander	ATIPPA, 2015 Overview
27-Sep-17	English School District NL Leadership St John's	ATIPPA, 2015 Overview
30-Sep-17	NL Association of Optometrists AGM	PHIA Overview
5-Oct-17	Professional Municipal Administrators Fall Forum	Joint Presentation with ATIPP Office. Daily ATIPPA, 2015 Interactions.
12-Oct-17	Human Resource Secretariat Community of Practice	Section 33 Workplace Investigations
21-Oct-17	NL College Respiratory Therapists AGM	PHIA Primer
2-Nov-17	Municipalities NL AGM	Joint Presentation with ATIPP Office. Daily ATIPPA, 2015 Interactions.
4-Nov-17	NL Massage Therapists AGM	Inappropriate Clients - Privacy Concerns
23-Nov-17	Killick Coast Councils	ATIPPA, 2015 Overview
24-Nov-17	City of St. John's	OIPC Complaint Process (Presented following ATIPP Office Presentation)
27-Nov-17	Personal Care Home Operators	PHIA Overview

Date	Audience	Topic
28-Nov-17	OIPC Workshop for Public Bodies	Guidance Document Review: - Providing Reasons for Refusal of Access; - Disclosure to Law Enforcement; - Minimum Amount Necessary.
11-Jan-18	The Gathering Place	PHIA Overview
17-Jan-18	Mary Queen of Peace	ATIPPA, 2015 Overview
1-Feb-18	Office of the Child and Youth Advocate	Legislative Privacy Provisions
13-Feb-18	Town of Paradise	ATIPPA, 2015 Overview
28-Feb-18	NLHC (West Coast)	ATIPPA, 2015 Overview
2-Mar-18	City of St. John's (Building, Planning and Regulatory Services)	ATIPPA Overview (Privacy Focus)
2-Mar-18	Canadian Bar Association Mid-Winter Meeting	Presentation by Commissioner
23-Mar-18	Royal Newfoundland Constabulary	Privacy Breaches
26-Mar-18	OIPC Workshop	Privacy Management Programs

Other examples of activities and events include the following:

1. annual meeting/telephone conference with all Regional Health Authorities;
2. staff members attended the International Access and Privacy Professionals Symposium and other privacy and access to information conferences;
3. consultations with the Office of the Child and Youth Advocate;
4. participated in International Access and Privacy Professionals (IAPP) Knowledge Net events;
5. Commissioner attended the annual Federal/Provincial and Territorial Information and Privacy Commissioners' Conference;
6. regular meetings with Office of the Chief Information Officer about issues of mutual relevance;
7. OIPC staff participated with privacy oversight counterparts across Canada in meetings and teleconferences related to privacy issues associated with the development of electronic health records, under the auspices of the Canada Health Infoway Privacy Forum;
8. a number of meetings and teleconferences were held with stakeholders and experts in relation to Open Contracting; and

9. a number of meetings involving internal staff and external Steering Committee members to plan an Access, Privacy, Security and Information Management conference slated for spring 2018.

Since the *ATIPPA, 2015* came into force in June, 2015, the OIPC has adapted to its new role quite well. One of the major changes in how the Office's oversight function operates now is that Commissioner's Reports are only one source of guidance regarding the interpretation of *ATIPPA, 2015* and *PHIA* for public bodies, custodians and the general public. Some of the detailed research and analysis which was once found in a typical Commissioner's Report is now found in our ever-broadening selection of [guidance documents](#).

Building on the work begun following proclamation of the *ATIPPA, 2015*, in this past year we have continued to develop a number of new guidance documents:

- Privacy Management Program Guidelines;
- Travelling with Mobile Devices;
- Minimum Amount Necessary Requirement;
- Business Interests of a Third Party (revised);
- Anonymity of Applicants;
- Collecting Information via Social Media (Employee and Background Checks);
- Disclosure of Personal Health Information for Research Purposes;
- Use of Social Media: Quick Tips;
- Quick Tips - Sending Personal Health Information Via Email;
- Tips for Accessing Public Body Records;
- Providing Reasons for Refusal of Access Guidance Document;
- *The Public Procurement Act and ATIPPA, 2015*;
- Disclosure to Law Enforcement Guidance Document;
- Advice and Recommendations Guidance Document.

These guidance documents are very important because of the many challenges faced by public bodies in complying with the *ATIPPA, 2015*. Because of deadlines in *ATIPPA, 2015*, Access and Privacy Coordinators need to be able to quickly refer to such resources as they

make decisions, and hopefully avoid complaints about either the process or the outcome. The guidance documents also aid citizens in understanding their rights of access to information and protection of their personal information. Some of these guidelines have been through a second or third revision because they are living documents that evolve in response to case law, legislative changes and other developments. We look forward to adding new guidance documents next year.

An important part of our oversight mandate was fulfilled in commenting on a number of draft bills. In accordance with section 112 of *ATIPPA, 2015* it is a requirement that we be consulted on draft legislation before it is tabled in the House if the bill could have implications for access to information or protection of privacy. This important provision ensures that privacy and access to information are considered by an independent body with expertise in this area when new laws are being drafted.

Other important advocacy and compliance activities were also undertaken. On August 4, 2017, this Office released an audit involving the Motor Registration Division (MRD) of Service NL entitled, *Information Sharing Agreements: Essential Administrative Safeguards*. This audit is available online at <http://www.oipc.nl.ca/reports/audit>.

Following this audit we played an active role in assisting parties to renew their Information Sharing Agreements with Service NL.

During 2017-2018, the Office planned and launched two additional audits, one examining video surveillance and one examining electronic access controls. The Office anticipates finishing and publishing these audits during the 2018-2019 fiscal year.

This year, the Royal Newfoundland Constabulary and Eastern Health partnered to create a Mental Health Crisis Response Team. This Office was provided with an opportunity to review and comment on Eastern Health's PIA for this program. We also reviewed the PPIA for the NL Central Driver Licence Initiative of MRD, Service NL. Although privacy impact assessments have not been shared with this Office, the Department of Finance consulted with the Office regarding the consolidation of debt collection services within government and the NL English School District consulted with us regarding the Digital Portfolio initiative. At year end, a

review was underway of PIAs prepared by the Regional Health Authorities regarding the Therapy Assistance Online (TAO) program.

The OIPC has continued to maintain communication with officials of the Department of Health and Community Services regarding the review of *PHIA*. It is a legislative requirement that *PHIA* undergo a Review every five years. The first mandatory review was launched by the Minister of Health and Community Services on December 20, 2016, and was conducted by a Review Committee chaired by Dr. David Morgan. Although the OIPC provided its formal submission and supplementary submissions during the previous reporting period, the Committee's final report was issued in May of 2017, and an amended version was published in September of 2017. During this past year there have been ongoing discussions about the Report and its recommendations, as well as next steps towards potential amendments to *PHIA*. The Report and other resources are available at <http://www.phiareviewnl.ca/>.

REPORT ON PERFORMANCE

Issue 1: *ATIPPA, 2015*

The *ATIPPA, 2015* came into force on June 1, 2015, following a comprehensive review process. Since that time, the OIPC has made a number of changes to adapt to the expanded mandate it was given under the new regime. Among a great many other changes, the Review Committee, Chaired by former Premier Clyde Wells, made recommendations (which were ultimately accepted) to ensure that the OIPC had a clear mandate to educate public bodies about the *ATIPPA, 2015* and to become an advocate for access and privacy.

Many efforts have been under way since June of 2015 to fulfil that mandate, and further work continues.

<p>Objective 1: By March 31, 2018 the Office of the Information and Privacy Commissioner will have completed and published additional guidance pieces interpreting the exceptions to the right of access and other provisions found in the ATIPPA, 2015 for the benefit of public bodies and their access and privacy coordinators.</p>	
<p>Planned for 2017-2018</p>	<p>Actual Performance for 2017-2018</p>
<p>Completion of new guidance pieces for ATIPPA, 2015.</p>	<p>Completed fourteen new guidance pieces.</p>
<p>Published guidance pieces on the OIPC website.</p>	<p>All new guidance pieces posted on the OIPC website.</p>
<p>Explained and communicated new guidance pieces to public bodies through our newsletters and presentations.</p>	<p>Explained and communicated new guidance pieces to public bodies through our newsletters and presentations.</p>

<p>Discussion of Results</p> <p>This will be an ongoing mission for the Office, as legislative interpretation continues to evolve as new case law is written in this and other jurisdictions. Some guidance must be updated from time to time, such as the guidance pieces on the Third Party Business Interests (Section 39), which underwent a second revision subsequent to the proclamation of the <i>Public Procurement Act</i>. There are also a number of provisions in the Act for which no guidance document has been created as of yet, however the work we have done to date compares more than favourably with oversight bodies in small to mid-sized provincial jurisdictions across Canada.</p>
<p>Objective 2: By March 31, 2019 the Office of the Information and Privacy Commissioner will have organized and hosted a conference on access to information, protection of privacy, information management and information security for a broad range of stakeholders within the Province.</p>
<p>Indicators for 2018-2019</p>
<p>Conference was hosted in 2018, earlier than planned, so this objective has been met;</p>
<p>Establish committee before March 31, 2019 to plan next conference;</p>
<p>Develop topics and agenda and choose speakers for next conference.</p>

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 subject to this legislation, in both the public and private sectors. On December 20, 2016 the Honourable John Haggie, Minister of Health and Community Services, announced the first legislative review of *PHIA*. The review process involved appointment of a Review Committee which invited submissions from various stakeholders (including the OIPC) and the general public, and it is expected to result in a report with recommendations to the Minister for amendments to *PHIA*. It is anticipated that any amendments will be passed and proclaimed into force during the period covered by this Activity Plan.

Based on our experience with past reviews of *ATIPPA* as well as preparations for the initial proclamation of *PHIA*, it is expected that there will be significant demands on the resources of the OIPC to work collaboratively with the Department as well as other major stakeholders in the health care field to ensure that the necessary resources are updated or developed to reflect the changes. This will include developing and updating guidance materials, manuals, online training, etc.

Any such activities flowing from the legislative review will be in addition to our normal legislative oversight activities, which currently place significant demands on the Office. This has involved a number of investigations resulting from privacy breaches, including investigations which have led to the prosecution of offences. One such prosecution is currently before the courts.

Despite any changes which may ultimately be made to *PHIA*, it is necessary for this Office to continue with its oversight activities as currently prescribed. In particular, we have identified the need to provide further guidance and outreach to custodians, especially those operating in the private sector with whom our relationship is not as well established as it is for the regional health authorities and some of the other large public sector custodians.

Objective 1: By March 31, 2018 the Office of the Information and Privacy Commissioner will have completed an outreach initiative to all of the associations, boards and professional colleges representing health care professionals to help ensure that their members are aware of the basic elements of *PHIA* compliance.

<i>Planned for 2017-2018</i>	<i>Actual Results for 2017-2018</i>
Completed first year of publication of a twice-annual <i>PHIA</i> newsletter for custodians.	The first issue of the <i>PHIA</i> newsletter, entitled <i>Safeguard</i> , was published in May 2017. Additional issues were published in August and November, with a fourth issue published in February 2018.
Make contact with all associations, boards/colleges for distribution of newsletter to members.	All associations, boards/colleges were contacted for distribution of the newsletter to members.

<p>Invite representatives of all associations, boards/colleges to meet individually with the Commissioner and/or staff to offer assistance in understanding and applying <i>PHIA</i>, to offer our services to speak at conferences and AGMs and to establish or re-establish professional working relationships.</p>	<p>The first newsletter included an offer to all associations, boards/colleges to avail of free education and resources offered by the Office of the Information and Privacy Commissioner.</p>
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Discussion of Results

This objective has been exceeded in some respects. The *PHIA* newsletter, which had been intended to be a twice per year publication, has seen four issues published in its first year. All associations, boards/colleges operating in the health care field have been contacted and now receive our newsletter for distribution to their members, and through the newsletter they have been informed that the OIPC is available to speak at conferences, AGMs, etc. Several such sessions have taken place in the reporting period, including presentations to the Pharmacy Board, the Association of Optometrists, and the College of Respiratory Therapists. We will continue to present these outreach opportunities in the future.

Objective 2: By March 31, 2019 the Office of the Information and Privacy Commissioner will have developed a strategy to reach out to post-secondary institutions which offer training in health-related fields with the goal of including information about *PHIA* and privacy protection within the formal curriculum of those programs, or if that is not possible, to offer presentations and resource materials about *PHIA* and privacy to instructors of those programs.

Indicators for 2018-2019

Outreach strategy has already been initiated in consultation with the Department of Advanced Education and Skills Development.

Discussion of options for curriculum enhancement.

Pursue alternatives (presentations and resources) if curriculum enhancement not feasible.

Issue 3: Public Education

Both *ATIPPA, 2015* and *PHIA* contain an explicit mandate to inform the public about each Act. The *ATIPPA, 2015* carried forward a strong message about public education from the Review Committee which conducted a comprehensive review of the law in 2014. The report of the Committee placed a strong emphasis on the important role which must be played by the OIPC in relation to public education. This resulted in a new provision being placed in the *ATIPPA, 2015* in section 95(2) which says the Commissioner “shall ... develop and deliver an educational program to inform people of their rights and the reasonable limits on those rights under this Act...”.

Since proclamation of the *ATIPPA, 2015*, significant efforts have been made to engage with public bodies and to make every effort to try to ensure that they have the knowledge and skills necessary to comply with the law, and in particular that they understand the many new requirements of the revamped law. A number of efforts have also been made to reach out to the public as well, however it is clear that these efforts need greater coordination and emphasis in order to fulfil the mandate of developing and delivering an educational program. The OIPC takes its responsibilities to educate the public about the *ATIPPA, 2015* and *PHIA* very seriously. Significant resources and effort have been invested by our Office to ensure, to the extent possible, that the people of the Province receive appropriate, necessary and timely information on the *ATIPPA, 2015* and *PHIA*, and we intend to build on these efforts during the period of this Activity Plan.

Objective 1: By March 31, 2018 the Office of the Information and Privacy Commissioner will have identified and extended an offer to community organizations, professional associations, and business groups for the purpose of informing them about both *ATIPPA, 2015* and *PHIA*, customizing our presentations to the needs and interests of each audience where appropriate.

<i>Planned</i>	<i>Actual Results</i>
Identified community organizations, professional associations, business groups and others.	As noted from the large number of presentations and meetings listed above, outreach to community organizations, professional associations, business groups and others has been a significant focus of the OIPC during the past year.

Discussion of Results

We have been successful in reaching out to an incredibly diverse audience. Just to list a few examples, the Commissioner and/or staff have presented to the Canadian Bar Association, Mary Queen of Peace School staff, the Gathering Place, NL Massage Therapist Association, Professional Municipal Administrators, Keyin Pharmacy Technician students, Internal

Auditors Association, and many more. As it turns out, many of these organizations approached our Office with the request that we present to their group, so the objective of identifying and approaching them ourselves was largely superfluous. We will strive to enhance our position and performance in this area in the future, however, to ensure that we continue to conduct proactive outreach to a broad spectrum of audiences.

Objective 2: By March 31, 2019, the Office of the Information and Privacy Commissioner will have reviewed and improved the function of its website to ensure that information about rights granted under *ATIPPA, 2015* and *PHIA* is readily available and accessible to members of the public.

Indicators for 2018-2019

Timeline calculator to be added, which will assist the public in understanding time frames and date ranges associated with processes under *ATIPPA, 2015* and *PHIA*.

“Complaint checker” to be developed, which will serve as criteria/FAQ for individuals wishing to file a complaint.

Video tutorial to be developed on OIPC complaint processes.

OPPORTUNITIES AND CHALLENGES

It is fair to say that the OIPC has emerged from the initial adjustment period following the enactment of *ATIPPA, 2015* on June 1, 2015 into a steady state operation. The processes and procedures necessary for oversight of the new Act are largely in place and functioning well, although regular updates and tune-ups will always be required.

One outcome that we have been striving towards in the past year is a reduction in the number of complaints filed with this Office. Through the outreach and education efforts described above, such as the production and dissemination of detailed guidance documents, publishing newsletters, conducting presentations, organizing conferences, use of our audit and PIA review mandate, and in continuing to advocate for proactive disclosure, our oversight role should be rebalanced into an equal measure of investigations and advocacy/compliance. This will serve the public better, and will be a better use of public resources. This strategy has been bearing fruit, as can be seen from the reduction in the number of complaints filed with this Office in the past year, and we intend to continue our focus on these proactive efforts in the coming year.

	2016-2017	2017-2018
ATIPPA, 2015 Access Complaints	315	160
ATIPPA, 2015 Privacy Complaints	23	33
PHIA Access Complaints	4	7
PHIA Privacy Complaints	9	15
Time Extensions	153	171
Disregards	29	77
ATIPPA, 2015 Breach Notifications	182	204
PHIA Breach Notifications	38	12

In conclusion, the OIPC will continue to strive to fulfill the various components of its mandate. We continue to encourage and support an environment of open communication and dialogue with public bodies and custodians and to work in a spirit of cooperation. We are pleased with the role we have played in the legislative review of *PHIA*, and we congratulate the Department of Health and Community Services in ensuring a transparent and detailed review process. We look forward to positive legislative enhancements to *PHIA* in the coming year.

With *ATIPPA, 2015* acknowledged as being on the cutting edge of access to information law, and *PHIA* amendments anticipated, this Office is hopeful that Newfoundland and Labrador will boast some of the strongest access and privacy legislation in the country, and we look forward to and are excited to be a key part of this very important legislative regime. We also look forward to continued cooperation and consultation with all stakeholders, with the aim of providing the best possible service to the citizens of the Province as they exercise their rights under the *ATIPPA, 2015* and *PHIA*.

FINANCIAL STATEMENT

Expenditure and revenue figures included in this document are based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for fiscal year ending March 31, 2018 (un-audited).

	<u>Actual</u> \$	<u>Estimates</u> <u>Amended</u> \$	<u>Original</u> \$
OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER			
Current			
6.1.01. Office of the Information and Privacy Commissioner			
01.Salaries	953,380	1,116,800	1,116,800
02.Employee Benefits	4,252	6,500	6,500
03.Transportation & Communications	25,214	30,500	32,800
04.Supplies	5,806	7,700	7,700
05.Professional Services	43,881	50,000	50,000
06.Purchased Services	121,307	122,400	122,400
07.Property, Furnishings & Equipment.	<u>3,264</u>	<u>3,300</u>	<u>1,000</u>
	<u>1,156,209</u>	<u>1,337,200</u>	<u>1,337,200</u>
02.Revenue - Provincial			
Total: Office of the Information and Privacy Commissioner	<u>1,156,209</u>	<u>1,337,200</u>	<u>1,337,200</u>

Note: Audited financial information will be included in the Annual Report to be tabled by the Speaker during the next sitting of the House. The Office of the Information and Privacy Commissioner does not have a requirement for a separate individual audited statement.