



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

2023-2024 Annual Report



Cover Photo Courtesy of Gerry Brown



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AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

September 24, 2024

The Honourable Derek Bennett
Speaker of the House of Assembly
Newfoundland and Labrador

I am pleased to submit to you the Annual Report for the Office of the Information and Privacy Commissioner in accordance with section 9 of the **Transparency and Accountability Act**, section 105 of the **Access to Information and Protection of Privacy Act, 2015**, and section 82 of the **Personal Health Information Act**. This Report covers the period from April 1, 2023 to March 31, 2024.

As acting Commissioner, I am privileged to oversee the work of the OIPC and to provide guidance and leadership. I am pleased to report on the results from the 2023-2024 commitments in our Activity Plan of 2023-2026. Former Commissioner Michael Harvey provided leadership for this full reporting period.

Yours truly,

Jacqueline Lake Kavanagh
Information and Privacy Commissioner (A)

Table of Contents

COMMISSIONER'S MESSAGE	1
ABOUT US	3
Mandate	3
Our Values	4
Who We Serve	4
Our Vision	5
Lines of Business	5
Organizational Structure	6
Budget and Financial Statement	6
Statistics	7
HIGHLIGHTS	8
Cyber Attack	8
Website Redesign	12
Federal, Provincial, and Territorial Joint Statements	13
REPORT ON PERFORMANCE	14
ADVOCACY AND COMPLIANCE	25
Education, Outreach and Training	25
Privacy Impact Assessment Review	27
Guidance Documents	27
Legislative Consultations – The Opportunities and Challenges	28
INVESTIGATIONS	31
Informal Resolutions	31
Reports	31
Compliance	34

Disregard and Time Extension Applications	34
Breach Reporting	36
Court Matters	37
CONCLUSION	48
APPENDIX A – Means of Resolution Explanations for Access and Privacy Investigative Files under the Access to Information and Protection of Privacy Act, 2015	
APPENDIX B – Timelines (business days) for Access Complaints for the 2023-2024 Reporting Period under the Access to Information and Protection of Privacy Act, 2015	
APPENDIX C – Timelines (business days) for Privacy Complaints for the 2023-2024 Reporting Period under the Access to Information and Protection of Privacy Act, 2015	



COMMISSIONER'S MESSAGE

I am pleased to present the Office of the Information and Privacy Commissioner's Annual Report 2023-2024. It was a busy year, and I wish to extend my appreciation to all those who worked hard to advance access to information and protection of privacy every day. The commitment of my staff has been important in this regard, but so has the effort and cooperation of those in the many entities we work with on a regular, and sometimes daily basis. A true collective effort is required to ensure information and privacy interests and rights are protected and advanced. Where gaps and shortfalls exist, I am committed to working towards informal resolutions where possible, or investigating and making formal recommendations where appropriate. The focus is always to identify ways that these matters can be remedied in a meaningful and constructive way.

The work of supporting access to information and protecting privacy is critically important in a modern democratic society that values transparency and citizen participation. Despite best efforts, full and effective implementation of the **Access to Information and Protection of Privacy Act, 2015** and the **Personal Health Information Act** is constrained by ever growing demand and limited resources. Public bodies are on the front lines of this challenging situation, and even after an access to information request has been responded to, the clock can begin ticking again if a complaint comes to this Office. I am concerned about the struggle of some public bodies to meet legislatively defined timelines for responses and that backlogs may become chronic. It is important to further support the capacity of public bodies doing this work so that they are better positioned to ensure citizen rights are fulfilled.

I have both hope and concern about emerging technologies, and their impact on individual privacy as well as the broader societal consequences. There is an inherent challenge in protecting privacy in a growing digital world. This is especially true for the digital world in which young people live. Privacy interests and security considerations and protections must remain at the forefront. As privacy professionals, it is vitally important to be well-informed on these issues and to share this knowledge. I am very pleased with our Activity Plan commitment to support young people's digital privacy rights, education, and protections. It is also vitally important to engage young people as we plan and deliver on this commitment.

With much anticipation, the Honourable Robert Fowler completed the Structural Review of the Statutory Offices of the House of Assembly and issued his report in 2023. My Office, through former Commissioner Harvey and staff, contributed to the review process. From my perspective, a key message in the report is the importance of the independence of the statutory offices. I look forward to engaging in any planning process that may arise from the recommendations which affects the Office of the Information and Privacy Commissioner.

I would like to take this opportunity to thank former Commissioner Michael Harvey who provided five years of dedicated leadership as Information and Privacy Commissioner. The work reflected in this Report was completed under his watch. He has left a valuable legacy behind him. I wish him well in his new endeavours.

And finally, I would like to take this opportunity to recognize all staff at the Office of the Information and Privacy Commissioner. Since assuming the role of acting Commissioner, I have appreciated the helpful and welcoming response to my appointment. Many thanks to each and every one of you.

Jacqueline Lake Kavanagh
Information and Privacy Commissioner (A)

ABOUT US

MANDATE

The Office of the Information and Privacy Commissioner (OIPC) for the Province of Newfoundland and Labrador is an independent statutory office of the House of Assembly. The Commissioner has a broad range of responsibilities and powers under both the **Access to Information and Protection of Privacy Act, 2015** (ATIPPA, 2015) and the **Personal Health Information Act** (PHIA).

OIPC oversees compliance with ATIPPA, 2015 and PHIA. Oversight of these Acts includes conducting reviews of decisions, investigating and attempting to resolve complaints about access to information and protection of privacy involving public bodies under ATIPPA, 2015 and custodians of personal health information under PHIA, and making recommendations in order to uphold the Acts and encourage better compliance.

ATIPPA, 2015

ATIPPA, 2015 applies to more than four hundred public bodies, including government departments, agencies, boards, commissions, crown corporations, public educational bodies, NL Health Services, and municipalities, and gives individuals the right to access records of a public body, including their own personal information, subject to specific limited exceptions, and the right to correct their own personal information. ATIPPA, 2015 provides for protection of privacy by establishing requirements public bodies must follow for the collection, use, storage, and disclosure of personal information.

PHIA

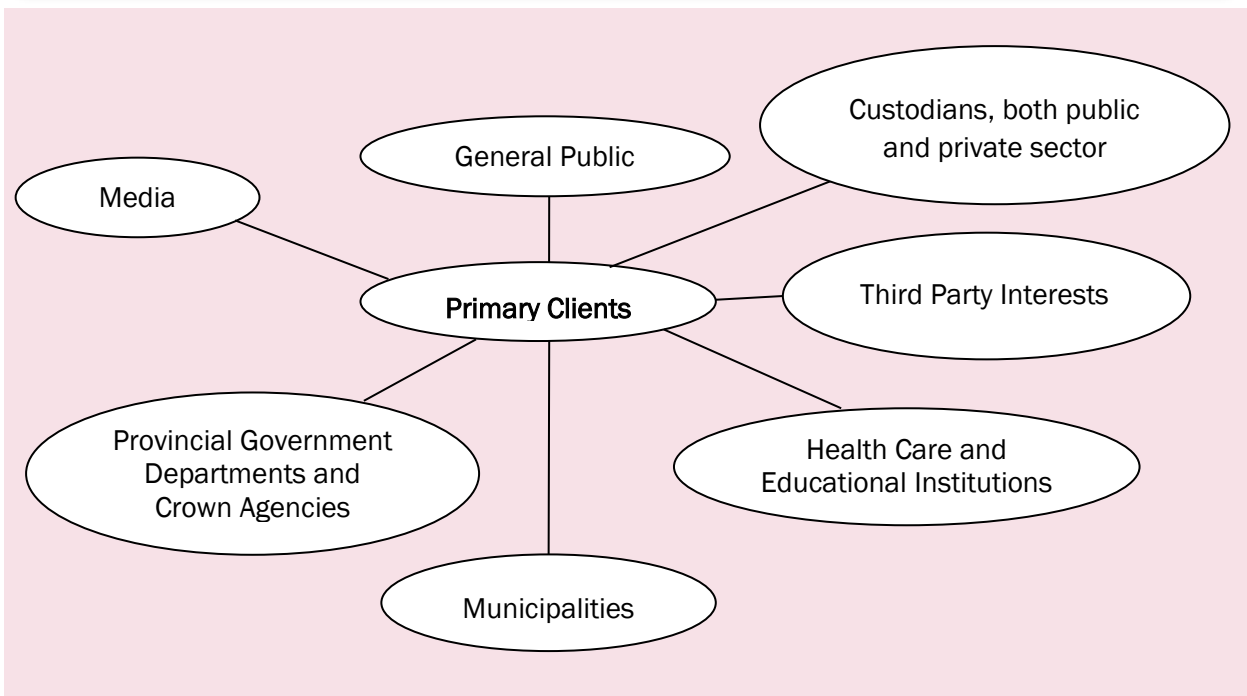
PHIA applies to thousands of custodians, including all health care providers, health care professionals, and other custodians of personal health information, and gives individuals the right to access records of their own personal health information and the right to correct their own personal health information. PHIA provides for protection of privacy by establishing requirements custodians must follow for the collection, use, storage, and disclosure of personal health information.

OUR VALUES

The following values guide OIPC as it upholds its commitment as an independent office.

- Independence** OIPC will conduct investigations independent of any influence.
- Integrity** OIPC will provide accurate, unbiased advice and recommendations.
- Confidentiality** OIPC will adhere to a standard of absolute confidentiality.
- Judgment** OIPC will use professional knowledge and judgment in interpreting policies, practices, and procedures to help ensure compliance with ATIPPA, 2015 and PHIA.
- Respect** OIPC will listen to and consider the ideas and opinions of others, and work collaboratively to achieve results.

WHO WE SERVE



OUR 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.

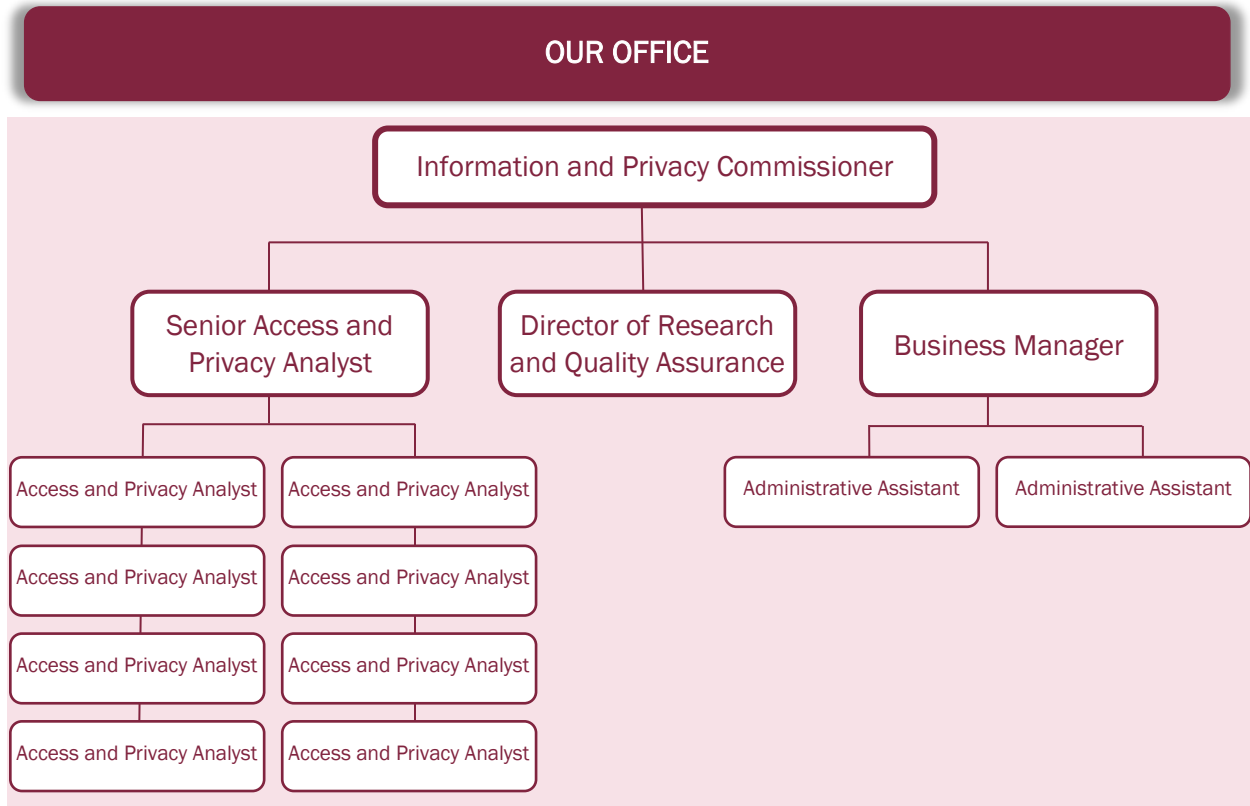
LINES OF BUSINESS

We carry out our mandates under ATIPPA, 2015 and PHIA through two lines of business:

1. Investigations; and
 2. Advocacy and Compliance.
-
1. The Investigations branch handles access to information and privacy complaints, including own motion investigations and investigations that could lead to a charge being laid under the offence provisions of ATIPPA, 2015 or PHIA. This branch also processes requests from public bodies for time extension and disregard applications under ATIPPA, 2015. All publicly issued reports, and detailed information about the complaints process to OIPC are available on our website.
 2. The Advocacy and Compliance branch has responsibility for the following:
 - receiving and reviewing privacy breach reports;
 - conducting audits of public body privacy and access to information practices;
 - consulting and supporting public bodies and custodians who request it;
 - conducting public body and custodian training, public education, and outreach;
 - reviewing privacy impact assessments; and
 - promoting awareness of and compliance with ATIPPA, 2015 and PHIA.

ORGANIZATIONAL STRUCTURE

Our Office is located in the Sir Brian Dunfield Building, 2 Canada Drive, St. John's, NL and has a staff complement of 14 permanent positions represented by the following organizational chart.



BUDGET AND FINANCIAL STATEMENT

The 2023-2024 budget for OIPC was \$1,451,500. 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, 2024 (unaudited).

	Actual \$	Estimates Amended \$	Original \$
6.1.01. OIPC			
01 Salaries	1,446,391	1,447,100	1,208,100
02. Employee Benefits	2,788	4,500	4,500
03. Transportation & Communications	27,235	32,300	32,800
04. Supplies	4,761	6,700	6,700
05. Professional Services	63,974	71,400	75,000
06. Purchased Services	122,981	123,600	122,400
07. Property, Furnishings & Equipment	4,806	4,900	2,000
02. Revenue – Provincial			
Total: OIPC	1,672,936	1,690,500	1,451,500

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

STATISTICS

Our Office tracks a range of statistical information which reflect on our operations, and the information and privacy environment in Newfoundland and Labrador. To view additional statistical information for 2023-2024 please visit our [website](#).

BY THE NUMBERS

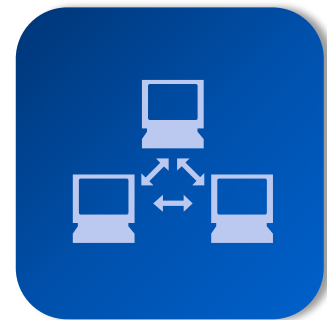
	2023-2024	2022-2023	2021-2022
Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)			
Access Complaints Received	236	217	131
Privacy Complaints Received	50	36	42
Time Extension Applications Received	820	502	604
Disregard Applications Received	53	57	70
Breach Notifications Received	185	190	207
Personal Health Information Act (PHIA)			
Access Complaints Received	6	7	3
Privacy Complaints Received	16	20	21
Breach Notifications Received	26	26	33
Advocacy and Compliance			
Guidance Documents*	11	3	7
Education, Training, and Outreach Initiatives	31	9	10
Privacy Impact Assessments (PIAs)	2	2	12

*Includes originals and revisions.

HIGHLIGHTS

CYBER ATTACK

Our investigation into the 2021 cyber attack concluded this year. On May 23, 2023, we issued Report P-2023-001/PH-2023-002 outlining the results of our largest and most complex investigation to date. In October 2021, the HIVE ransomware group entered our province's health care information systems. Its presence went unnoticed for a two-week period, after which time it brought many



health care services to a grinding halt through a ransomware cyber attack. Although it was not immediately known at the time, most everyone in our province had some amount of personal health information or personal information accessed and taken in this ransomware cyber attack. In the months that followed, considerable efforts took place to bring the health care system back to functioning capacity. In conjunction with restoration of services, the impacted

“...it is likely that the vast majority of the population of the province had some amount of personal information or personal health information taken by the cyber attackers...”

-Report P-2023-001/PH-2023-002 pages 26-27

entities took steps to investigate the breach, attempt containment, provide notification, and implement measures to prevent future breaches. In total, our Report contains 34 findings and six recommendations.

The Report confirms that the security of our province's health information system was lacking at the time of the cyber attack. Industry standard cyber security measures were either not in place or were not fully implemented. This left the personal health information of our province's citizens vulnerable to a cyber attack, something which we determined was almost an inevitability. Vulnerabilities were known within the health care system and there was a failure to take sufficient and timely steps to remedy them. As stated in the executive summary of the Report:

The biggest question at the outset of this investigation for us was whether this cyber attack succeeded despite these entities having cyber security practices that met recognized international standards, or if it succeeded because those standards were not being met at the time. Unfortunately, we found the latter.



The personal health information involved in the cyber attack was highly sensitive information that deserved the highest degree of protection, and a high impact ransomware attack against our province's health care information systems was foreseeable. The Report found that our province's regional health authorities did not have reasonable security arrangements in place to protect their personal health information and personal information, contrary to both PHIA and ATIPPA, 2015.

Although our Report found that the regional health authorities did not have reasonable security arrangements in place at the time of the cyber attack, it does go on to state that reasonable cyber security steps were being taken to mitigate the risk of a future breach as it relates to the vulnerabilities that contributed to the cyber attack. The Report states at paragraph 294:

It may not escape notice that while this Report has many findings, it has relatively few recommendations. That is due entirely to the fact that, subsequent to the immediate aftermath of the cyber attack, a great deal of work was launched, led primarily by the Centre, but also with the cooperation of the Regional Health Authorities, to address the vulnerabilities and the shortcomings which the attack had laid bare. In the time that has passed, great strides have been made to prevent a future cyber attack, and even if one were to occur, to reduce its impact. We encourage this progress to continue.

The Report cautioned that there is more work to be done; it is an ongoing task, involving not just technical measures, but appropriate policies and employee training, and crucially, leadership. As of April 1, 2023, the entities impacted by the cyber attack were integrated into one Provincial Health Authority known as NL Health Services.

Our Report recommended that NL Health Services:

1

...provide an update within its communications (such as each Region's website landing pages for the 2021 cyber attack) confirming this was a ransomware cyber attack and providing a link to Government's Report which outlines more details about the attack and prevention steps being taken.

2

...update notification policies to reflect that where there is a breach of personal information or personal health information (where notification is required under an Act), that in the case of a ransomware cyber attack, notification should include information about those circumstances at the earliest reasonable opportunity, and furthermore that the factors considered in making such decisions about notification must be documented.

3

...continue to take diligent steps to ensure that information management policies and procedures addressing retention and destruction of personal information and personal health information are developed and implemented to minimize the breadth and impact of any future privacy breach.

4

...that the projects outlined in Breakwater be appropriately resourced and implemented within the time frame outlined in the plan, informed and adjusted as required by the Gartner Assessment and any other subsequent assessments or analyses, with the goal of ensuring that cyber security across the provincial health information system meets internationally accepted cyber security standards.

5

...undertake periodic external reviews, assessments, or audits at reasonable intervals going forward, to assess the status of cyber security across the provincial health information system and to determine whether the cyber security standards found to be in place are appropriate for the size of organization and the nature and sensitivity of the information to be protected, in accordance with internationally accepted cyber security standards, and furthermore to communicate the results of such assessments to the Minister.

6

...[creation of] a Chief Privacy Officer position, within the Provincial Health Authority, at or reporting directly to the executive level, whose role it is to ensure that privacy best practices are embedded within all of the Authority's activities, and to help ensure the Authority's compliance with privacy laws. The person to fill that role should have qualifications and experience in privacy, with an appropriately resourced staff to carry out that mandate, from the largest hospital to the smallest clinic to virtual care, encompassing all parts of the Authority's activities, including primary care, secondary uses of information for research and evaluation, and employee personal information.

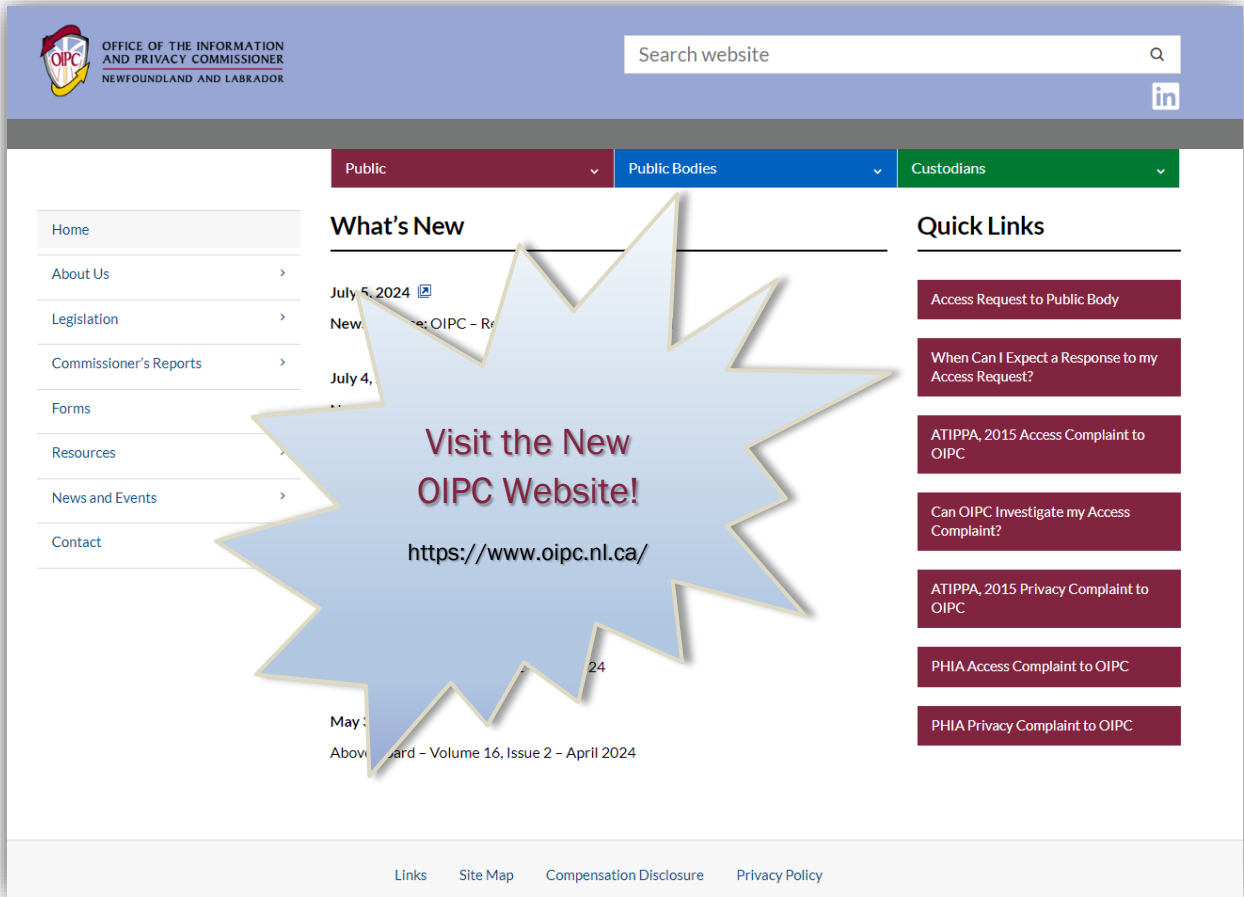
The letter in response to our Report, sent on behalf of NL Health Services, referred to therein as the Provincial Health Authority (PHA), includes confirmation that:

The PHA appreciates the OIPC's recognition of the tremendous efforts of the PHA to continue to further enhance cybersecurity for the health sector in Newfoundland and Labrador. While the PHA disagrees with a number of the findings in the Report, the PHA will comply with all of the recommendations in the Report.

Our Office followed up with NL Health Services as it relates to the Report's recommendations six months later. On December 20, 2023 we received a written update and thereafter met with NL Health Services officials on February 23, 2024 to discuss and review steps taken in response to our Office's recommendations. NL Health Services cooperated with our Office and provided a comprehensive update and, based upon the information we received, NL Health Services is taking reasonable steps as it relates to our Report's recommendations.

WEBSITE REDESIGN

We were very pleased to complete our website redesign initiative this year:



This project involved comprehensive updates to webpage content and a complete overhaul of the website layout. These enhancements are aimed at improving user-friendliness and accessibility for the public, public bodies and custodians. We believe our efforts have resulted in a more engaging and navigable online space that better serves our clients.

FEDERAL, PROVINCIAL, AND TERRITORIAL JOINT STATEMENTS

Another 2023-2024 highlight took place at the annual meeting of the federal, provincial and territorial (FPT) Information and Privacy Commissioners and Ombudspersons on October 3-6, 2023 in Québec City, Québec. It was here that the Commissioner, together with other FPT Information and Privacy Commissioners and Ombudspersons, signed three important joint resolutions.

Joint Resolution to Enhance Access to Government Information

1

This resolution, titled **Facilitating Canadians' access to government records to help restore trust in our institutions**, is aimed at enhancing and reinforcing the public's right to access government-held information.

FPT

This resolution, titled **Putting best interests of young people at the forefront of privacy and access to personal information**, calls on organizations across all sectors to actively safeguard young people's data through responsible measures and to support and enhance their rights to access, correction, and appeal regarding personal data.

This resolution, titled, **Protecting Employee Privacy in the Modern Workplace**, addresses the recent proliferation of employee monitoring software, and calls on governments to develop or strengthen laws to protect employee privacy while urging employers to be more transparent and accountable in their workplace monitoring policies and practices.

2

Joint Resolution on Privacy of Young People

3

Joint Resolution on Employee Privacy

All signed joint resolutions are located on our website.

REPORT ON PERFORMANCE

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.

Actual Performance

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.

2023-2024

Indicator

1

Updated the current investigative and follow up process and implemented necessary changes to policies and procedures.

Actual Performance

We reviewed and updated four of our internal procedures: ATIPPA, 2015 Access Investigative Files procedure, ATIPPA, 2015 Follow-up to Investigative File procedure, PHIA Follow-up to Investigative File procedure and Breach Report Review procedure.

We reviewed and updated 15 of our internal policies associated with the investigation processes for ATIPPA, 2015 and PHIA. These internal policies are available on our website.

Indicator

2

Monitored effectiveness of any new policies and procedures.

Actual Performance

The finalization of updated or new policies or procedures occurred towards the latter quarter of this year. Therefore, our monitoring efforts remain in early stages as we close out this year. So far, staff independently reviewed new and updated policies and procedures, and conducted in-depth review of our more complex procedures.

Actual Performance

We updated and simplified the majority of our public facing forms used for both ATIPPA, 2015 and PHIA.

We updated and created new ATIPPA, 2015 complaint forms for complainants, namely: Access Complaint, Correction Complaint, Cost Review Complaint, and Privacy Complaint. Similarly, we updated and created new PHIA forms for complainants, namely: Access Complaint, Correction Complaint, Cost Review Complaint, and Privacy Complaint. We also updated two of our ATIPPA, 2015 forms for public bodies, namely: Time Extension Application and Disregard Application.

We updated three of our existing investigation guidelines and created seven new guidelines to assist public bodies, custodians, and complainants manage and respond to complaints under ATIPPA, 2015 and PHIA. These guidelines are currently available to view on our website.

Discussion of Results

In 2023-2024, we improved our business practices by reviewing and updating our internal policies and procedures as well as a number of public facing forms and resources that are fundamental to much of the work of our Office. We also created new public facing resources to fill identified gaps. In completing these projects we aimed for and achieved our goals of consistency, accuracy, and simplification. In general, tackling this issue in the 2023-2024 year was successful and we plan to continue this forward trajectory in the next year.

We noted in our early monitoring stages that the updated procedure for ATIPPA, 2015 Access Investigative Files is one of the more complex internal procedures that requires focused monitoring efforts for the following year. A number of substantial changes were also made to the public facing forms, the biggest of which was taking the singular complaint form (that was

used for the different complaints of access, correction, and cost review within the one document) and separating it into three separate forms for each complaint type under both ATIPPA, 2015 and PHIA. Our early monitoring confirms that focused monitoring efforts for the public facing forms should occur in the following year given this significant change in our complaint forms.

Planning for Next Year

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.		2024-2025
Indicators	<ol style="list-style-type: none"> 1. Will have updated the remainder of the public facing forms, namely the privacy breach reporting forms used by public bodies and custodians. 2. Will have continued monitoring effectiveness of new or updated policies and procedures. 3. Will have finalized revisions to public-facing forms and guidelines. 	

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.

Actual Performance

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.

2023-2024

Indicator

1

Identified relevant stakeholders.

Actual Performance

We identified a number of relevant stakeholders for this issue, including the Department of Education, Newfoundland and Labrador English School District (now integrated into the Department of Education), Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador, the Department of Children, Seniors and Social Development, the Office of the Child and Youth Advocate, parents, caregivers, and children themselves.

On January 25, 2024, the provincial government announced the creation of Education Accord NL, a project intended to develop a targeted approach to transforming and modernizing Newfoundland and Labrador's education system. We identified consultation with the Education Accord project team to be a mechanism by which we may be able to facilitate and support opportunities to enhance digital privacy rights, education and protections for child and youth students within the education system.

Actual Performance

In 2023-2024, we focused communication efforts on three large stakeholders. We organized a meeting with the Department of Education, the Department of Children, Seniors and Social Development, and the Office of the Child and Youth Advocate in an effort to receive input on areas of importance and current relevance, and discuss engaging with stakeholders on a broader basis.

The Commissioner also communicated with the public through media appearances where he explained the intention for our Office to focus on this particular issue during 2024 Data Privacy Week. From that public engagement, youth-serving organizations Thrive and CASEY (which stands for Coalition Against the Sexual Exploitation of Youth) reached out to our Office to discuss common ground for our respective initiatives.

As we close out the 2023-2024 year, we have coordinated a meeting with the Education Accord NL team that will take place in the coming months.

Indicator

3

Received input from relevant stakeholders.

Actual Performance

During meetings with stakeholders, we received feedback from the Department of Education, the Department of Children, Seniors and Social Development, the Office of the Child and Youth Advocate, and Thrive/CASEY as it relates to this issue. Topics of discussion included possible initiatives or mechanisms that may be beneficial in our province, methods of communication with parents, caregivers, and students, identification of additional potential stakeholders, and areas of concern.

During 2023-2024, we also researched what our Canadian counterparts and other interest groups had actioned in this space in an effort to gain insight and inspiration. From our review of these resources, similar initiatives may be beneficial in this province as well.

Discussion of Results

In 2023-2024, we successfully identified stakeholders related to this issue, received input from some stakeholders, and identified potential projects, initiatives, or mechanisms that may facilitate and support opportunities to enhance digital privacy rights, education and protections for children within the education system in this province. Our consultation with stakeholders during this year has provided our Office with valuable insight for options and opportunities to proceed with this project over the next two years.

Planning for Next Year

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.

2024-2025

Indicators

1. Will have continued to communicate with relevant stakeholders.
2. Will have continued to receive input from relevant stakeholders.
3. Will have commenced planning for 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.

Actual Performance

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.

2023-2024

Indicator

1

Identified emerging technologies.

Actual Performance

We identified a number of emerging technologies that we want to better understand through informal and formal training, including cyber security, data scraping, and artificial intelligence. We also identified a number of areas where technologies and programs are being developed and used for a specific focus as well, such as virtual care, children's online privacy, and employee monitoring programs.

Indicator

2

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

Actual Performance

We identified both virtual and in person education and training opportunities in the form of presentations and expert panel discussions. Many of these education and training opportunities came from the International Association for Privacy Professionals, Office of the Chief Information Officer, and federal-provincial-territorial partnerships, or were initiated by our Office.

Indicator

3

Began education and training for emerging technologies.

Actual Performance

We began education and training for emerging technologies with our staff attending presentations or panel discussions on topics such as: Privacy in the Age of Artificial Intelligence and Investigative Genetic Genealogy; Youth Perspectives on Digital Policy and Data Protection; The Intersection of Privacy and Security; Privacy by Design: More Than Just a Catchy Phrase; Cybersecurity Presentation, Cyber Security Training – Fight the Phish!; Security Breach Investigations; Recommendation Ceremony of the Youth Assembly on Digital Rights and Safety; and Artificial Intelligence in the Public Sector. We also arranged for a presentation on Artificial Intelligence (AI) governance from leaders in the Government of Canada’s artificial intelligence policy division, attended by officials from this Office as well as other senior government and public body leaders, and participated in a second presentation on AI governance and policy from Ontario government officials.

Discussion of Results

In 2023-2024, we successfully identified emerging technologies, education and training opportunities, and we began internal education and training. We are committed to continuing education and training in order to provide guidance, education, and oversight on matters related to access to information and protection of privacy in this evolving field.

Planning for Next Year

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.

2024-2025

Indicators

1. Will have continued to identify emerging technologies.
2. Will have continued to identify education and training opportunities related to emerging technologies.
3. Will have continued education and training related to emerging technologies.

ADVOCACY AND COMPLIANCE

EDUCATION, TRAINING, AND OUTREACH

In 2023-2024, OIPC's Advocacy and Compliance branch engaged in many initiatives aimed at educating, training, and outreach throughout the year. Here are some of our engagement highlights.

April – May 2023



Apr. 12: Canada Health Infoway consults the Commissioner on the topic of an Interoperability Roadmap.

Apr. 28: The Commissioner speaks for the NL Chapter Education Day event organized by the Canadian Health Information Managers Association on the topic of Privacy and a Person-Centric Approach to Health Information (Virtual).

May 1: OIPC issues Above Board Newsletter to public body coordinators, covering topics such as deemed refusals, and transitory records.

May 5: Canada Health Infoway consults the Commissioner on the topic of implementing standardized health information and digital tools.

May 15: The Review of the Statutory Offices of the House of Assembly consults with the Commissioner (St. John's, NL).

May 24-26: The Commissioner participates in the Commissioners' Game Show panel with some of his Canadian counterparts, and speaks on a panel entitled Ensuring Privacy of Electronic Medical Records at the annual IAPP Canada Privacy Symposium (Toronto, Ontario).

June – August 2023



June 14: OIPC issues Safeguard Newsletter to custodian related organizations, covering topics such as information management agreements and small custodian toolkit guidance.

July 4: The Director of Research and Quality Assurance submits OIPC's extensive response about ATIPPA, 2015 as part of the inter-jurisdictional research project conducted by British Columbia's Freedom of Information and Privacy Association.

July 25: OIPC issues Above Board Newsletter to public body coordinators, covering topics such as reasonable search, workplace investigations and the benefits of proactive and informal release of information.

Aug. 31: OIPC issues Safeguard Newsletter to custodian related organizations, covering an overview of OIPC's cyber attack report.

September 2023



Sept. 12: The Commissioner speaks at the Canadian Council of Public Accounts Committees/Canadian Council of Legislative Auditors Annual Conference on the topic of Managing Cyber Security Threats (Whitehorse, Yukon).

Sept. 12: The Commissioner participates in a round table discussion on the Review of the Federal Approach to Pandemic Science Advice and Research Coordination.

Sept. 26: The Commissioner speaks at the United Nations General Assembly's Annual Science Summit in a panel discussion on the topic of Health Privacy and Innovation (New York, USA).

Sept. 25 Week: OIPC brings awareness to and celebrates Right to Know Week issuing a News Release, posting on social media, and developing activities focused on access to information. The Commissioner speaks on the importance of access to information and Right to Know Week on The Signal and News Talk.

October 2023



Oct. 3-6: The Commissioner takes part in the Annual FPT Information and Privacy Conference (Quebec City, Quebec).

Oct. 19: Health Canada and its consultant speaks with the Commissioner on the topic of Interoperability of Health Information.

November 2023



Nov. 7: OIPC issues Above Board Newsletter to public body coordinators, covering topics such as privacy of young people, and solicitor and client privilege.

Nov. 9-10: The Director of Research and Quality Assurance speaks at the Canadian Bar Association Access and Privacy Symposium discussing recent case law on the Provincial Update Panel and participates on the Regulator's Panel with jurisdictional Commissioner counterparts (Ottawa, Ontario).

Nov. 17: The Commissioner attends Osler's Inaugural Health Privacy Symposium: Respectfully Unlocking Data to Transform our Health Care System and participates in discussion on the Regulators Panel.

Nov. 22: At the Annual FPT Investigators' Conference the Commissioner speaks on the digitization of records and process in event titled Increasing Efficiency/Reducing Backlog (Virtual).

Nov. 23: OIPC provides recorded PHIA training to custodian members of the NL Pharmacy Board.

Nov. 30: The Commissioner speaks at the IAPP KnowledgeNet Event for the St. John's Chapter in a discussion titled Privacy and Access at a Turning Point (Virtual). OIPC issues Safeguard Newsletter to custodian related organizations, covering topics such as virtual care and personal health information search.

December 2023 - February 2024



Dec. 5-6: During the 11th Annual Data Summit on Data Analytics for Healthcare, the Commissioner provides the keynote address titled Activating Data for the Nation's Wellbeing (Toronto, Ontario).

Jan. 22: OIPC issues Above Board Newsletter to public body coordinators, covering topics such as artificial intelligence, employee privacy, and privacy breach management.

Jan. 22 Week: OIPC brings awareness to and celebrates Data Privacy Week issuing a News Release, posting on social media, developing activities focused on privacy and protection of personal information. The Commissioner speaks on the importance of privacy and Data Privacy Week on The Signal, News Talk, NTV News, Open Line, and Bay of Islands Radio.

Feb. 13: The Commissioner participates in the Global Privacy Assembly working group on Data Privacy and other Fundamental Rights.

March 2024



Mar. 6: OIPC issues Safeguard Newsletter to custodian related organizations, covering topics such as artificial intelligence and protecting personal health information off-site or on the road.

Mar. 7: The Director of Research and Quality Assurance participates in panel discussions, providing a presentation to students of the Osgoode Certificate in Privacy and Cybersecurity program.

Mar. 15: The Commissioner speaks to members of the Rotary Club St. John's East Chapter about modern challenges in presentation titled Keeping Up with Access to Information (St. John's, NL).

Mar. 21: The College of Registered Nurses records a podcast discussion with the Commissioner about health information, privacy, and the **Personal Health Information Act** in an episode it plans to release to its members soon titled Privacy & Confidentiality - What Every RN/NP Should Know (St. John's, NL).

Mar. 26: The Commissioner provides training to the Office of the Auditor General in presentation titled The Role of the OIPC (St. John's, NL).

PRIVACY IMPACT ASSESSMENT REVIEW

Privacy impact assessments (PIAs) and preliminary privacy impact assessments (PPIAs) help identify and address potential privacy risks that may occur in a project. ATIPPA, 2015 requires departments and the executive branch of the provincial government to complete a PIA or PPIA during the development of a program or service. If the program or service under development is a common or integrated program or service, the minister must notify OIPC regarding this program at an early stage of development and it must submit the PIA to OIPC for the Commissioner's review and comments. In addition to those PIAs required by statute to be submitted to us, OIPC is also happy to review and provide feedback on PIAs submitted voluntarily. This is a valuable opportunity for government departments to access expert advice early in their planning processes and we encourage them to accept this invitation.

What is a common or integrated program or service?

A common or integrated program or service provides one or more services through:

- a public body and one or more other public bodies working collaboratively; or
- one public body working on behalf of one or more other public bodies.

GUIDANCE DOCUMENTS

Our guidance documents, available on our website, are designed to provide the general public, public bodies, and custodians with a useful analysis of issues and topics that are of interest or concern. This guidance aids citizens in understanding their right of access to information and the protection of their personal information. These tools also assist coordinators and custodians as they respond to requests, provide advice, and make decisions.

This year our Office created a guidance document to assist custodians in complying with PHIA's legislative requirements for Information Management Agreements and we also updated three of our existing investigation guidelines and created seven new guidelines to assist complainants, public bodies, and custodians manage and respond to complaints under ATIPPA, 2015 and PHIA.

For the Public/Complainants:

- Managing Your Access Complaint – **Updated!**
- Managing Your Third Party Access Complaint – **Updated!**
- Managing Your Privacy Complaint – **NEW!**

For Public Bodies:

- Public Body Responding to an Access Complaint – **Updated!**
- Public Body Responding to a Third Party Access Complaint – **NEW!**
- Public Body Responding to a Privacy Complaint – **NEW!**

For the Public/Complainants:

- Managing Your Access Complaint – **NEW!**
- Managing Your Privacy Complaint – **NEW!**

For Custodians:

- Custodian Responding to an Access Complaint – **NEW!**
- Custodian Responding to a Privacy Complaint – **NEW!**
- Best Practices for Information Management Agreements – **NEW!**

LEGISLATIVE CONSULTATIONS – THE OPPORTUNITIES AND CHALLENGES

Legislation is created and amended all the time in the House of Assembly. A key component of effective legislative change involves robust and meaningful consultation with subject area experts. Fortunately for the legislative process, ATIPPA, 2015 requires Ministers, as per section 112(1) to consult the Commissioner on proposed bills that could have access to information or protection of privacy implications. This must occur as soon as possible on or before the date the bill is introduced in the House. The law further requires the Commissioner, as per section 112(2), to provide advice in response. This advice can offer valuable information and insights to better inform the legislative process and outcome. It is noteworthy

that the law enables the Commissioner to comment publicly on bills only after they have been made public. Therefore up to this point, all consultations and discussions would remain confidential.

A significant shift has occurred in the consultation process. In the past, full draft bills were provided to this Office. However in the past year, practices have changed so that consultation may now involve providing an overview of proposed bills, a short presentation or slide deck, a phone call, brief emails, or providing specific provisions of a bill where there is a perception of privacy or access issues. OIPC argues that this reduced form of consultation does not meet the obligations as per section 112(1). This is not meaningful and fulsome consultation, and also does not allow the Commissioner to meet the obligation to provide the best advice.

Inadequate consultation deprives departments of the opportunity to consider our advice and input on a draft bill. In the past, we have reviewed and commented on numerous draft bills that were shared with the Commissioner in full. In those comments we have been able to provide detailed commentary and advice not only about the policy intent behind the bill, but more crucially, about the “how” of the bill. That detailed advice about the specific words of a statutory provision is usually where the most significant privacy or access to information issues are to be found, and over the years our commentary has actually provided fresh insights to departmental officials, who have sometimes gone on to revise draft language based on our input. That kind of impact is no longer possible with the reduced level of consultation we now receive.

Unless the Commissioner has been allowed to review the actual language in a draft bill, and to view the bill as a whole so that the context is clear, full consultation has not occurred. This is due to the simple reason that the meaning and impact of a bill is found in the specific words and phrases used, and how those words and phrases interact with the rest of the statute. A single word choice can make all of the difference between a bill that is supportive of privacy and access to information principles or one which undermines them. A presentation about or a high level description of the bill is simply not as meaningful as allowing the Commissioner to take the time to review the draft statutory provisions, conduct research, and then prepare comments or questions for departmental officials, which was our past practice.

Currently, the first opportunity for the Commissioner to see the full text of a bill is when the bill is made public. It is important to note that there is actually no process in place to notify the Commissioner when this occurs. Even with the full text as soon as it becomes publicly available, the legislative process often unfolds rapidly, leaving insufficient time to assess the language in the bill, ask questions to officials, or research comparable legislation in other jurisdictions. In short, it is simply not possible under the current process to provide meaningful input on the privacy and access to information implications of most draft bills before they become law.

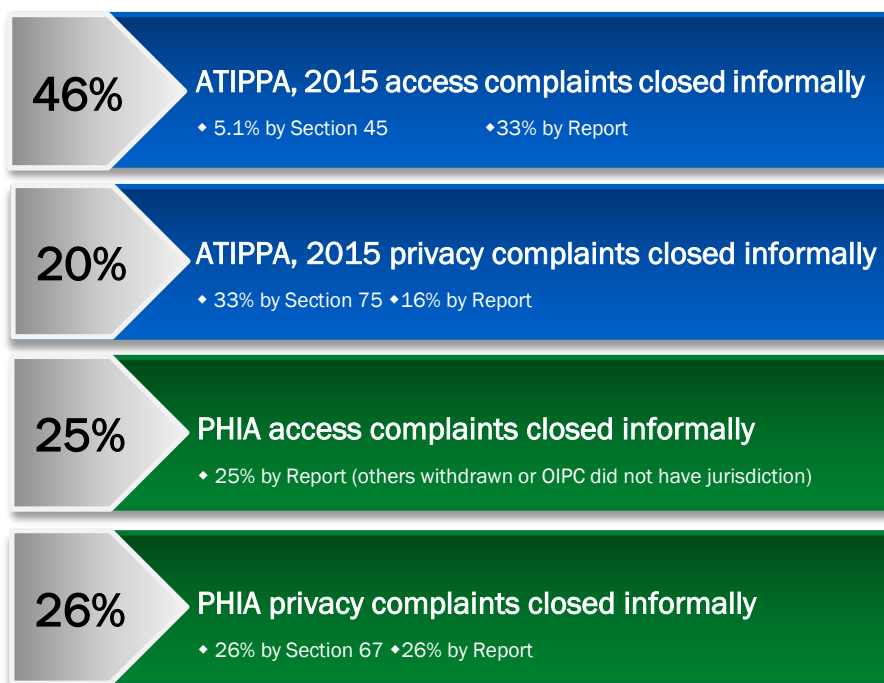
Former Commissioner Michael Harvey was so concerned about this change in consultation practice that he took the unprecedented step of issuing OIPC's first-ever Special Report to the House of Assembly in accordance with section 106 of ATIPPA, 2015. He outlined the impact on protection of privacy and access to information that this reduced level of consultation has had. The Report is available on our website, entitled **Special Report SR-2023-001: Reduced Government Consultation with the Office of the Information and Privacy Commissioner under ATIPPA, 2015 section 112.**

This discussion clearly indicates that shortcomings and challenges exist with the consultation process for the development of legislation. However there are real opportunities for immediate improvements so that the legislative process is better informed, which will result in better laws for the citizens of Newfoundland and Labrador. The Office of the Information and Privacy Commissioner is committed to work in confidence with departments at the earliest opportunity in the legislative process. This is an open and genuine invitation to avail of our expertise and experience.

INVESTIGATIONS

INFORMAL RESOLUTIONS

ATIPPA, 2015 and PHIA allow OIPC to work with the public who filed complaints, together with public bodies, and custodians, to resolve complaints informally where possible and appropriate to do so. While a large number of complaints are resolved through written report, OIPC resolves many complaints informally. In 2023-2024 OIPC resolved the following complaint files through informal resolution methods:



REPORTS

In 2023-2024, this Office issued 51 reports that closed 71 access investigation files (43 reports closed one file each, four reports closed two files each; one report closed three files, one report closed four files, one report closed five files, one report closed eight files) and three privacy reports that closed eight privacy investigation files (one report closed five files, one report closed two files and one report closed one file) under ATIPPA, 2015. There were no access reports and one privacy report that closed five privacy investigation files under PHIA.

Municipalities

ATIPPA, 2015 applies to several hundred public bodies across Newfoundland and Labrador. Many of these are municipalities, both large and small. Staff and councils of municipalities should be aware that responding to access to information requests is part of the regular operations of any municipality, and plan accordingly. Throughout 2023-2024, OIPC received several complaints about municipalities, including complaints that municipalities had not responded to an access request on time (A-2023-018, A-2023-033, and A-2024-002); or that municipalities had not met their duty to assist an applicant under section 13 of ATIPPA, 2015 (A-2023-026). In some cases, municipalities failed to respond adequately to this Office's investigation, not providing submissions or not responding to requests to produce records (A-2023-024, A-2023-031, A-2023-033, and A-2024-002).

OIPC appreciates that many of the province's municipalities have limited staff and resources for responding to access requests. However, ATIPPA, 2015 applies equally to municipalities as it does to any other public body, and municipalities must be prepared to meet their obligations under the legislation. Municipalities should consider contacting the ATIPP Office under the Office of the Executive Council regarding training and resourcing issues.

Section 13 – Reasonable Search

The duty to assist at section 13 of ATIPPA, 2015 consists of three elements: reasonable efforts to assist an applicant, responding to a request in a timely manner, and conducting a reasonable search for responsive records. A reasonable search is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request. The standard is reasonableness and it is not a standard of perfection. This means that public bodies may not find every single record during a search but they may have conducted a reasonable search for records. OIPC continues to receive numerous complaints alleging that a public body did not conduct a reasonable search.

A-2023-038 – Department of Fisheries, Forestry and Agriculture

An access request was made for records related to a Crown Lands file. The Department conducted a search for records, but the Complainant noted that one record referenced an

attachment that had not been provided. The Department conducted a further search prior to the Complainant making a complaint to this Office, but was unable to locate the referenced attachments. The Complainant subsequently filed a complaint and this Office investigated. OIPC agreed that the Complainant had raised a reasonable question of whether the Department's search had uncovered all responsive records. Ultimately, further searches did not locate the missing records and, while the referenced attachments could not be located or provided, OIPC concluded that the Department had conducted a reasonable search and therefore met its duty under section 13.

Section 16 – Deemed Refusal

Throughout 2023-2024, our Office received several complaints regarding failures by public bodies to respond to access requests within the 20 business days provided by section 16 of ATIPPA, 2015. Where a public body does not respond within this timeframe (or such longer time that has been approved by the Commissioner under section 23) they are deemed, by section 16(2), to have refused access, which gives an applicant a right to file a complaint. We received deemed refusal complaints about both small public bodies and large Government of Newfoundland and Labrador departments. While all deemed refusals are concerning, deemed refusals within larger Government departments are of particular concern as these departments are well educated on ATIPPA, 2015, are aware of the tools available to request time extensions from our Office, and understand the duty to assist an applicant.

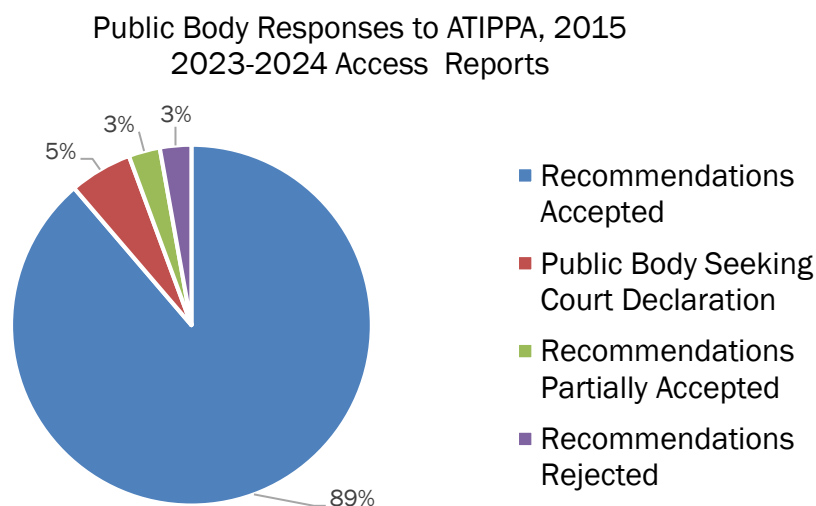
A-2023-046, A-2023-047, A-2024-007, A-2024-008, and A-2024-015 – Department of Justice and Public Safety

This Office received several complaints during the reporting period, starting in the fall of 2023, about the Department of Justice and Public Safety failing to respond to access to information requests on time. In these reports, the Commissioner found the Department had failed to comply with sections 16 (time limit for final response) or 13 (duty to assist). Further, the Commissioner noted that the Department had not availed of the tools at section 23 (extension of time limit) to seek a time extension from this Office. Across these reports, the Commissioner recommended that the Department review its policies and procedures, apply for time extensions where appropriate, and assign additional resources where necessary.

COMPLIANCE

As noted above, this Office issued 55 reports in 2023-2024 (51 ATIPPA, 2015 access, three ATIPPA, 2015 privacy, and one PHIA privacy). Public bodies and custodians in receipt of a report from OIPC are required to respond within ten business days under ATIPPA, 2015 and 15 days under PHIA and indicate whether they accept the recommendations contained in a report.

The below chart illustrates how public bodies have responded to recommendations from this Office.



* The recommendations in the single privacy report under PHIA were accepted in full by the Custodians and the recommendations in the three privacy reports under ATIPPA, 2015 were accepted in full by the Public Bodies.

OIPC monitors public body and custodian compliance with its recommendations and may, where appropriate, rely on its order-making powers under sections 51 and 80 of ATIPPA, 2015 to enforce compliance of accepted recommendations.

DISREGARD AND TIME EXTENSION APPLICATIONS

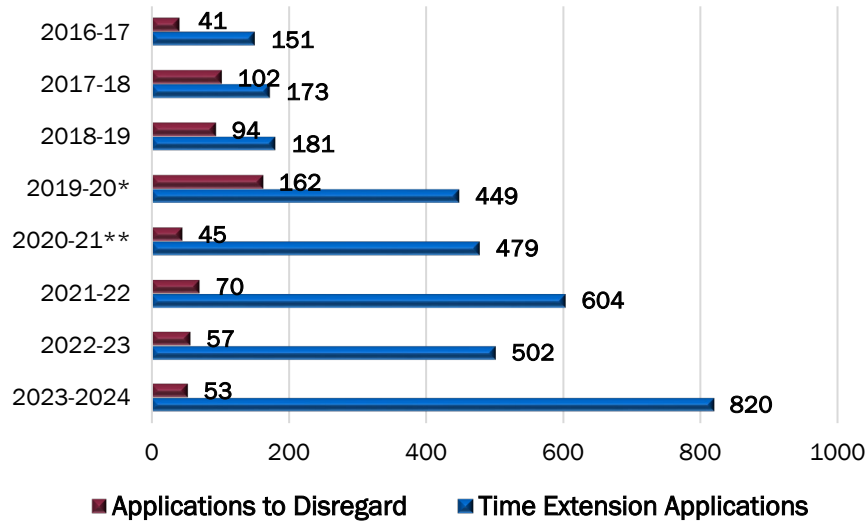
Under sections 21 (disregarding a request) and 23 (extension of time limit) of ATIPPA, 2015, public bodies may apply to this Office for approval to disregard an access to information request or approval of an extension of time to respond to an access to information request.

These provisions recognize that some access requests may involve substantially more work than others and can assist public bodies in managing their workload. Section 21 further recognizes that not all access requests may be reasonable and public bodies should not be expected to expend time and resources answering requests that are repetitive, frivolous, excessively broad, or otherwise in bad faith. As highlighted in the “Reports” section of this Annual Report, OIPC has received an increasing number of deemed refusal complaints. Rather than simply failing to meet the statutory deadline to issue a response to requesters, those public bodies which find themselves answering complex and large access to information requests should consider the time extension provisions of ATIPPA, 2015.

In 2023-2024, public bodies made 820 applications for extensions of time for 537 unique access to information requests (where appropriate, this Office will consider multiple applications for the same access to information request). Also in this year, public bodies made 53 applications for approval to disregard access to information requests.

Of the 820 time extension applications, 723 (88.2%) were approved, 76 (9.3%) partially approved, six (0.7%) denied, and the remaining 15 (1.8%) were withdrawn by the public body. In total, across 805 applications (discounting those that were withdrawn), this Office approved 90.9% of additional time requested by public bodies (13,750 days approved out of 15,122 days requested).

This Office may approve a public body’s application to disregard an applicant’s request for information. The consequences of this approval means the applicant does not get to make their access request, however they may file an appeal in Court of the public body’s decision to disregard the request. Although there is recourse, the Court process can be time consuming and costly. Given these consequences, a higher threshold for a disregard application applies. Of the 53 disregard applications, 37 (69.8%) were approved, four (7.5%) partially approved, and 12 (22.6%) denied.



* 2019-20 Time Extension Applications -110 during the State of Emergency; 100 during COVID-19 lockdown; and 239 Normal Requests.

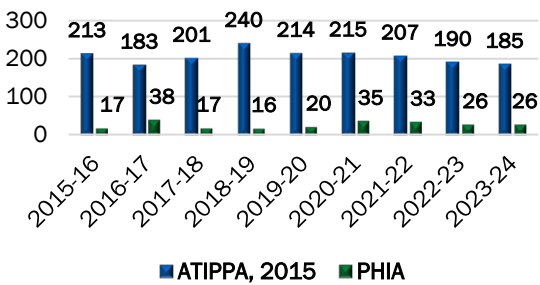
** 2020-21 Time Extension Applications - 218 during COVID-19 lockdown and 261 Normal Requests.

BREACH REPORTING

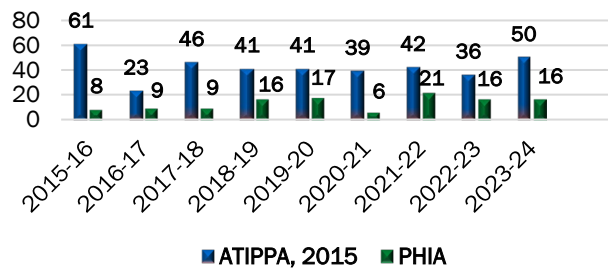
Under both ATIPPA, 2015 and PHIA, public bodies and custodians are required to maintain the security of personal information and personal health information in their custody or control. Further, ATIPPA, 2015 and PHIA require public bodies and custodians to notify OIPC in the event that personal information or personal health information has been improperly accessed, disclosed, stolen, lost, or disposed of. In the case of ATIPPA, 2015, public bodies must report every breach, while under PHIA, custodians must only report a material breach as defined in the regulations.

In 2023-2024, public bodies reported 185 breaches to this Office under ATIPPA, 2015. In the same period, custodians reported 26 breaches under PHIA. These figures represent a modest decrease from the 190 breaches reported under ATIPPA, 2015 while PHIA breaches remain the same as the 26 breaches reported under PHIA in 2022-2023.

Privacy Breach Notifications



Privacy Complaints Received



Of the breaches reported to this Office under ATIPPA, 2015, the majority (61.6%) continue to involve personal information being sent to the wrong person through email. Another type of email-related breach that may not be as common as the unintended recipient, is a breach resulting from the failure to use an email's blind carbon copy (BCC) field. The BCC field in an email allows the sender to include recipients without revealing their email addresses to other recipients. This feature is useful for protecting the privacy of individuals in a mass email, and the failure to use this function can result in a large breach. In 2023-2024, eight BCC-related ATIPPA, 2015 privacy breaches disclosed the personal information of 648 people and three PHIA privacy breaches also involved a sender failing to use the BCC field, leading to unintended disclosure of recipient personal information of 378 people.

The breach reporting provisions of ATIPPA, 2015 and PHIA provide OIPC with an opportunity to engage with public bodies and custodians to provide guidance on containing and mitigating privacy breaches. In addition to reporting privacy breaches to OIPC, both ATIPPA, 2015 and PHIA also provide for public bodies and custodians to notify those individuals affected by a privacy breach.

COURT MATTERS

At any given time, a number of matters relating to the mandate of OIPC are working their way through the courts. The vast majority of these, and in the case of this particular reporting period, all of them, tend to relate to access to information matters under ATIPPA, 2015. Occasionally OIPC may be the appellant or respondent in these matters, but most commonly

we are an intervenor, given that the Commissioner has a statutory right to intervene in such matters.

The Commissioner and our staff work with ATIPPA, 2015 every day and as the independent oversight body we have expertise and practical experience to share with the court as to interpretation of the statutory provisions. While this sometimes means the arguments we put forward in court will appear to align with those of the access to information applicant, on other occasions our submissions are more consistent with those of the public body or third party. Sometimes we may take a different perspective than any other party before the court. Regardless of the specific details of each case, our goal is to be a friend of the court, to assist in bringing about a result that best reflects a purposive interpretation of the statute.

We refer to court matters by the court file numbers as issued by the Supreme Court of Newfoundland and Labrador, General Division or Court of Appeal for Newfoundland and Labrador, as applicable, and where there are court decisions, by the decision citation number as well.

Ongoing Court Matters

Department of Transportation and Infrastructure, 2020 01G 6069;
Department of Fisheries, Forestry and Agriculture, 2021 01G 0966;
Department of Transportation and Infrastructure, 2021 01G 5446;
Office of Women and Gender Equality, 2022 01G 2003;
Office of Women and Gender Equality, 2022 01G 4144;
Department of Justice and Public Safety, 2022 01G 2004;
Department of Justice and Public Safety, 2023 01G 1307; and
Treasury Board Secretariat, 2023 01G 1416.

These matters are all applications seeking a declaration of the Court pursuant to section 50 of ATIPPA, 2015 that the Public Body does not have to comply with the recommendations in a Commissioner's Report. The complaints that resulted in these Reports involved requests by access to information applicants which were refused by the Public Body on the basis of a claim of solicitor-client privilege. During the course of each of these OIPC investigations, the Public Body refused to provide a copy of the unredacted records to the Commissioner for

review. The Commissioner deemed insufficient evidence was provided to verify the claims. Following the Court of Appeal ruling in **OIPC v. Department of Justice and Public Safety, 2023 NLCA 27**(CanLII), pertaining to court matter 2022 01H 0023, we accept that OIPC does not have the authority to compel production of such records under the current statutory language used in ATIPPA, 2015.

Nevertheless, the onus on the Public Body to bear the burden of proof per section 43 of the Act remains, and how a public body can meet the burden of proof for the solicitor-client exception will vary depending on the facts of each matter. In each of these cases, the Public Bodies did not provide sufficient evidence, or in some cases any evidence at all, to discharge their burden of proof. The Commissioner therefore recommended disclosure of the responsive records. It will be up to the Court in hearing these declaration applications to determine what constitutes sufficient evidence to discharge the Public Body's burden of proof. These matters are now beginning to move forward. In February 2024, an application to consolidate both matters involving the Office of Women and Gender Equality was approved and a court date has been set for February 10, 2025

Oleynik v. Memorial University, Various Court Files;
Oleynik v. Legal Appointments Board, 2022 01G 5032; and
Oleynik v. Independent Appointments Commission, 2023 01G 1907.

The Applicant and Memorial University have a number of matters before the Court relating to decisions by Memorial in response to his access to information requests. These matters were on hold pending the outcome of a vexatious litigant application by Memorial University involving the Complainant, which was heard by the Court and that decision is reported on below (**Memorial University of Newfoundland v. Oleynik, 2024 NLSC 42** (CanLII), pertaining to court matter 2021 01G 4960). The Applicant has appealed that decision to the Court of Appeal. The other matters remain on hold pending the outcome of that appeal. This has also had the effect of other matters involving the same Applicant (noted above) being held in abeyance until the outcome of that appeal.

Treasury Board Secretariat, 2022 01G 0149

This is an application seeking a declaration by the Court pursuant to section 50 of ATIPPA, 2015 that Treasury Board Secretariat (TBS) need not comply with the Commissioner's recommendations in Report A-2021-049. The complaint that resulted in that Report related to TBS's decision to withhold information from the Applicant citing sections 30(1)(a), 31(1)(a), and 31(1)(l). The Applicant had been seeking information regarding a workplace investigation of which they were the subject/respondent. The Commissioner found that TBS had not discharged its burden of proof regarding the exceptions to access it cited to withhold specific information in the responsive record, listed by page number in the Report. A hearing date was set for May 9, 2024.

Braya Renewable Fuels and NARL Logistics Limited Partnership v. Department of Industry, Energy, and Technology, 2022 01G 1628

This is an appeal by two Third Party companies of a decision by the Department of Industry, Energy, and Technology to comply with recommendations in Commissioner's Report A-2022-006 to release the majority of information within a memorandum of understanding. The appeal objects to the release of the information, arguing that the information in question is required to be withheld from the Applicant in accordance with section 39 of ATIPPA, 2015. At the conclusion of this reporting period there were indications that the matter may be resolved without the need for a hearing.

Lorraine Barbe v. Conseil Scolaire Francophone Provincial, 2023 01G 1176; and Lorraine Barbe v. Royal Newfoundland Constabulary, 2023 01G 2446.

These are two appeals filed by the same Applicant. The first is a direct appeal of a decision by Conseil Scolaire Francophone Provincial about an access to information request. The other matter is an appeal filed by the Applicant following a decision by the Royal Newfoundland Constabulary (RNC) to comply with the recommendations in Commissioner's Report A-2023-022. In that Report, the Commissioner had agreed with the RNC's determination that the records requested by the Applicant fell under section 5(1)(m) and were therefore not subject to ATIPPA, 2015. Dates have not yet been set for the Court to hear these matters.

Ariana Kelland and Canadian Broadcasting Corporation v. Royal Newfoundland Constabulary, 2023 01G 4873

This is a direct appeal of a decision by the Royal Newfoundland Constabulary (RNC) denying a request for records about disciplinary complaints, hearings, and decisions. The appeal argues that the RNC was over-broad in withholding information on the basis of section 40(1), that section 33(2), the workplace investigations exception, does not apply, and furthermore that section 33(2) is unconstitutional. A date has not yet been set for the Court to hear this matter.

Arts NL v. OIPC, 2023 01G 5365

This is an application by Arts NL seeking a declaration of the Court pursuant to section 50 of ATIPPA, 2015 that it need not comply with the Commissioner's recommendations in Report A-2023-042. The complaint that resulted in that Report related to a decision by Arts NL to withhold information from the Applicant, citing sections 32 (confidential evaluations) and 40 (personal privacy). The Applicant had been seeking the names of peer assessors in each grant category for the spring and fall granting sessions of 2022. The Commissioner found that Arts NL had not established that the exceptions apply. The matter is expected to be heard in 2024.

Karen Bennett v. College of the North Atlantic, 2023 01G 0220

This is an appeal by the Applicant of a decision by the College of the North Atlantic to comply with recommendations in Commissioner's Report A-2023-045. The Commissioner had recommended that the College continue to withhold certain information relating to a workplace investigation. A hearing date has not yet been set.

Memorial University of Newfoundland v. OIPC, 2024 01G 0937

This is an application by Memorial University seeking a declaration of the Court pursuant to section 50 of ATIPPA, 2015 that it need not comply with the Commissioner's recommendations in Report A-2024-006. The Applicant had sought information relating to vehicle allowances, bonuses, and special payments to senior officials of C-Core, Genesis, and the Canadian Centre for Fisheries Innovation. Memorial denied the request, taking the position that records of those entities are not within its control or custody. The Commissioner

determined otherwise, and recommended that Memorial conduct a search and provide a new response to the Applicant. The matter is expected to be heard in 2025.

Royal Newfoundland Constabulary v. OIPC, 2024 01G 1785

This is an application by the Royal Newfoundland Constabulary (RNC) seeking a declaration of the Court pursuant to section 50 of ATIPPA, 2015 that it need not comply with the Commissioner's recommendations in Report A-2024-011. The Applicant had sought information relating to a particular court file. The RNC partially denied the request, citing several exceptions. The Commissioner agreed with the RNC about some information it had withheld, but recommended other information be disclosed. A hearing date has not yet been set.

Court Decisions

OIPC v. Department of Justice and Public Safety, 2022 01H 0023

This was an appeal of the lower Court's decision in **Newfoundland and Labrador (Justice and Public Safety) v. Newfoundland and Labrador (Information and Privacy Commissioner)**, 2022 NLSC 59 (CanLII) in which the Court granted the Department's application for a declaration that the Department does not have to comply with the recommendations in OIPC Report A-2019-019. The appeal related to the refusal by the Department to provide records involving a claim of solicitor-client privilege to the Commissioner during the course of an investigation of a refusal to give an applicant access to records. The Commissioner had found that the Department did not discharge its burden of proof that the applicant had no right of access to the records because the Department did not provide the records to the Commissioner for review, and failed to provide other sufficient evidence to establish that the exception applied. The Court found that the Act did not require the Department to provide the records to the Commissioner, despite specific provisions having been included in ATIPPA, 2015 for that purpose, and furthermore it found that the records were subject to solicitor-client privilege. The Commissioner appealed that decision.

In this decision, **Newfoundland and Labrador (Justice and Public Safety) v. Newfoundland and Labrador (Information and Privacy Commissioner)**, 2023 NLCA 27 (CanLII), the Court of

Appeal denied the Commissioner's appeal of the lower Court's decision. While the Court of Appeal did affirm the lower Court ruling that the Commissioner could not compel the production of records during an investigation where there has been a claim of solicitor-client privilege, it did not go so far as to say that public bodies should not or must not provide records to the Commissioner for review when there is a claim of solicitor-client privilege.

Memorial University of Newfoundland v. Oleynik, 2021 01G 4960

In this matter, Memorial made an application seeking two orders from the court:

1. declare Anton Oleynik (the "Respondent") a vexatious litigant and subject him to a Vexatious Litigant Order restricting access to the Court; and
2. find that the Respondent's use of ATIPPA, 2015 constitutes abuse justifying the imposition of restrictions on his ability to make access to information requests under the legislation.

In this decision, **Memorial University of Newfoundland v. Oleynik** 2024 NLSC 42 (CanLII), the Court stated that the first application engaged the Court's inherent jurisdiction to control and manage its own procedures and processes, while the second application required the Court to examine its authority to use its inherent jurisdiction to protect subordinate, statutory decision-makers where they are unable to protect themselves from abuse.

The Court explained how courts are a public resource but they are not to be commandeered to advance the private interest of one person, denying access to others. Courts seek to employ efficient and orderly processes within which to prosecute civil claims and since there are limited resources, courts expect litigants to pursue practical resolution of their legal issues so as to facilitate, not frustrate, the litigation process.

The Court provided context by tracing back the matters presently before the Court to a 2017 appeal by the Respondent contesting Memorial's response to an access to information request, which was the precipitating factor giving rise to multiple court actions and access requests which in turn gave rise to subsequent legal proceedings, interlocutory applications, appeals, and appeals of appeals.

The Court provided a summary table listing 35 court proceedings, none of which were resolved. The Court noted that the table only provided information respecting originating proceedings and did not provide information on the frequent interlocutory applications that had been made.

In assessing whether a vexatious litigant order ought to be made respecting the Respondent, the Court reviewed factors referred to in established case law as indicia of vexatiousness. These factors included the following:

- raising issues that have already been determined and bringing actions that have no possibility of success;
- bringing actions for improper purposes;
- rolling issues into subsequent proceedings, making unnecessary appeals, and obfuscating any potentially legitimate dispute; and
- unsubstantiated allegations of misconduct, bias, retaliatory complaints, conspiracy theories, and inappropriate behavior.

After assessing the above criteria in light of the Respondent's numerous proceedings, the Court concluded that the Respondent is a vexatious litigant. In its decision, the Court provided a full list of the criteria considered specific to the Respondent.

Memorial also requested that the Court make an order to the effect that the Respondent's use of ATIPPA, 2015 amounts to abuse and that restrictions be placed on the Respondent's ability to make access to information requests under that legislation.

The Court cautioned that the behavior that constitutes sufficient abuse to grant a vexatious litigant order may not necessarily amount to abuse sufficient enough to justify judicial intervention to impose restrictions on access to an administrative process or decision-maker. The Court explained that while it is within the Court's jurisdiction to plug a gap in legislation, it does not have the capacity to impose a policy decision within the sphere of authority constitutionally provided to a legislature.

The Court recognized that ATIPPA, 2015 provides an avenue for public bodies to disregard an access request with the approval of the Commissioner, which is the tool the legislature incorporated into the Act to help deal with situations where applicants are working against the spirit of ATIPPA, 2015. The Court therefore determined there is no gap in the legislation to be rectified by the Court using its inherent jurisdiction.

The Court declared the Respondent to be a vexatious litigant for his abusive use of the Court's processes and procedures; his engagement in litigation for improper purposes; and his systemic and tactical use of ATIPPA, 2015 and the Court in an attempt to punish Memorial. The Court imposed a Vexatious Litigant Order requiring the Respondent to obtain leave before continuing with any ongoing proceeding or initiating any new proceeding, however, the Order does not restrain the Respondent from commencing proceedings in the Court of Appeal. The Court dismissed Memorial's second application holding that no gap exists in the legislation to justify judicial intervention.

The respondent has appealed this decision and this matter will proceed in the Court of Appeal.

St. John's (City) v. Newfoundland and Labrador (Information and Privacy Commissioner), 2023 01G 1322

This matter stems from an access to information request to the City of St. John's for information from financial statements regarding St. John's Sports and Entertainment Ltd., which is owned by the City.

The City denied access to two items in the Centre's financial statements: an "employee amount" showing overall financial liability relating to settlement of employee harassment claims and a "tenant amount" reflecting expenditure relating to settlement of claims involving a hockey tenant and related issues. The City applied sections 35(1)(b), 35(1)(g) and 30(1) and (2) to withhold the information. It also claimed common law settlement privilege to withhold the information. This resulted in a complaint to the Commissioner, and subsequently, the issuance of Report A-2023-012, recommending disclosure of the information. The City sought a declaration from the Court that it need not comply with the Commissioner's recommendations.

In this decision, **St. John's (City) v. Newfoundland and Labrador (Information and Privacy Commissioner)**, 2024 NLSC 40 (CanLII), the Court found that the employee information has no monetary value, so it could not be withheld under section 35(1)(b), which allows a public body to withhold information that has or is reasonably likely to have, monetary value. The Court found that there were too many variables in the employee amount to assess the value of individual settlements, or estimate potential settlements for future claims, or lead to past settlements being re-opened. The Court reached the same conclusion with respect to the tenant amount.

The Court made a similar finding with respect to the claim that both amounts could be protected from disclosure under section 35(1)(g), which allows a public body to withhold information that could reasonably be expected to prejudice its financial or economic interests. The Court noted that neither the employee amount nor the tenant amount could be used to re-create the value of any individual settlement or predict the value of a future severance claim, so the threshold for harm was not established.

The Court found that the information could not be withheld under either section 30(1) or (2). Given that the information exists in financial statements, the City could not establish that its dominant purpose was to prepare for litigation, nor could it establish that it was a communication between a solicitor and a client.

The City also cited common law settlement privilege. The Court found that, unlike solicitor-client privilege and litigation privilege which are specified exceptions in ATIPPA, 2015, settlement privilege is not an exception to disclosure. It noted that information could be redacted under 35(1)(g) if it would prejudice the financial or economic interests of a public body, however in this case the necessary elements could not be established by the City.

The Court ordered the City to comply with the Commissioner's recommendation to release the information.

Mike Higdon v. Eastern Health, 2023 01G 0201

This was an appeal in relation to Commissioner's Report A-2022-031 in which the Applicant requested a copy of the contract between a Third Party and Eastern Health for the management of support services. The Complainant also asked for the amounts paid to the Third Party and its affiliates for the last five years pursuant to current and past contracts. Eastern Health had withheld some responsive information, citing sections 35(1)(b) and 39(1). The Commissioner recommended, and Eastern Health agreed, to release the remaining information withheld under section 39(1) but to continue withholding some information under section 35(1)(b). The Applicant was of the view that all of the information should be released, so he filed an appeal after receiving Eastern Health's decision to follow the Commissioner's recommendation. A hearing was held on January 30, 2024 and the appeal was dismissed with an order from the bench without a written decision.

CONCLUSION

As 2023-2024 wound down, we could finally say that work had largely returned to pre-COVID routines. Our Office rebounded with improved policies and processes that will serve us well beyond the pandemic. The coordinated and committed efforts of every staff member will be required to ensure this.

Our investigation into the massive health care cyber attack was a significant undertaking for our relatively small office. It demonstrated our ability to pivot to tackle new challenges in an environment of intense public scrutiny and concern. We employed a rational and strategic approach to planning and implementing a complex and large investigation. Through the investigation, report and recommendations, we were pleased to be part of a constructive change process to improve privacy protections for Newfoundlanders and Labradorians. In fact, this is the crux of our daily efforts: to provide professional expertise and meaningful guidance to benefit people in the province on access to information and protection of privacy issues and complaints.

This Annual Report demonstrates the demand and need for our services. For example, written time extension requests increased by 63% from the previous year to 820 in 2023-24. ATIPPA access complaints increased by 9% from the previous year to 236, and ATIPPA privacy complaints increased by 39% in the same period for a total of 50. We fully appreciate that this volume of work is also reflective of high demands in public bodies. By nature, requests and complaints are frequently complex matters. With the pandemic era of public service delivery in the rearview mirror, we hope that public bodies can right size their ATIPPA, 2015 and PHIA resources to effectively and efficiently manage public demands. Both sets of legislation establish clear expectations and rights for the public.

Appendix A

**Means of Resolution Explanations for
Access and Privacy Investigative Files under
the Access to Information and Protection of Privacy Act, 2015**

Means of Resolution (ATIPPA, 2015 Access) Explanations

No Jurisdiction	Based on the preliminary information gathered, it was determined that ATIPPA, 2015 did not apply to the organization or activity that was the subject of the Complaint.
Declined to Investigate	Based on the preliminary information gathered, it was determined that the Commissioner declined to commence an investigation because the Complaint was not filed within a reasonable period, as set out in section 42 of the ATIPPA, 2015 or was filed prematurely.
Withdrawn	The Complainant no longer wishes to pursue the matter.
Informal Resolution	The OIPC helped negotiate a solution that satisfied all involved parties (either before or after a formal investigation). The Commissioner does not issue a Report.
Commissioner Refused to Investigate (s. 45)	The Commissioner has determined there are no reasonable grounds to proceed with a formal investigation as per section 44(4) or the Commissioner refused any further investigation because the Public Body has responded adequately; more appropriately dealt with by another procedure; time elapsed; or trivial, frivolous, vexatious, bad faith, as set out in section 45(1) of the ATIPPA, 2015.
Report	On completing an investigation, the Commissioner shall prepare a Report pursuant to section 48 of the ATIPPA, 2015.

Means of Resolution (ATIPPA, 2015 Privacy) Explanations

No Jurisdiction	Based on the preliminary information gathered, it was determined that ATIPPA, 2015 did not apply to the organization or activity that was the subject of the Complaint.
Declined to Investigate	Based on the preliminary information gathered, it was determined that the Commissioner declined to commence an investigation because the Complaint was not filed within a reasonable period, as set out in section 73 of the ATIPPA, 2015 or was filed prematurely.
Withdrawn	The Complainant no longer wishes to pursue the matter.
Informal Resolution	The OIPC helped negotiate a solution that satisfied all involved parties (either before or after a formal investigation). The Commissioner does not issue a Report.
Commissioner Refused to Investigate (s. 75)	The Commissioner has determined there are no reasonable grounds to proceed with a formal investigation as per section 74(2) or the Commissioner refused any further investigation because the Public Body has responded adequately; more appropriately dealt with by another procedure; time elapsed; or trivial, frivolous, vexatious, bad faith, as set out in section 75 of the ATIPPA, 2015.
Report	On completing an investigation, the Commissioner shall prepare a Report pursuant to section 77 of the ATIPPA, 2015.

Appendix B

**Timelines (business days) for Access Complaints for the
2023-2024 Reporting Period under the
Access to Information and Protection of Privacy Act, 2015**

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Started	Days for Formal Review	Date Complaint Resolved	Total Days
Town of Appleton	Informal Resolution	2024-02-19	6			2024-02-27	6
Newfoundland and Labrador English School District	Informal Resolution	2023-09-25	8			2023-10-05	8
Office of the Premier	Informal Resolution	2023-08-09	11			2023-08-24	11
Newfoundland and Labrador Health Services	Informal Resolution	2024-02-13	12			2024-02-29	12
Royal Newfoundland Constabulary	Informal Resolution	2023-06-13	13			2023-06-30	13
Town of Torbay	Informal Resolution	2023-05-24	13			2023-06-12	13
Town of Happy Valley-Goose Bay	Informal Resolution	2023-11-28	15			2023-12-19	15
Town of Musgrave Harbour	Informal Resolution	2023-10-27	15			2023-11-17	15
Town of Wabush	Informal Resolution	2024-01-16	17			2024-02-08	17
Town of Portugal Cove-St. Philip's	Informal Resolution	2023-11-14	18			2023-12-08	18
Town of Musgrave Harbour	Informal Resolution	2023-10-27	18			2023-11-22	18
Royal Newfoundland Constabulary	Informal Resolution	2023-10-03	19			2023-10-31	19
Department of Health and Community Services	Informal Resolution	2023-12-08	20			2024-01-10	20
Department of Digital Government and Service NL	Informal Resolution	2023-11-01	20			2023-11-29	20
Town of Norris Arm	Informal Resolution	2024-02-29	20			2024-03-28	20
Department of Justice and Public Safety	Informal Resolution	2023-11-30	21			2024-01-03	21
Department of Digital Government and Service NL	Informal Resolution	2023-09-19	21			2023-10-19	21
Department of Justice and Public Safety	Informal Resolution	2024-01-09	24			2024-02-12	24
Royal Newfoundland Constabulary	Informal Resolution	2023-05-29	24			2023-06-30	24
Town of Portugal Cove-St. Philip's	Informal Resolution	2023-10-16	24			2023-11-17	24
Town of St. George's	Informal Resolution	2024-01-15	24			2024-02-16	24
Town of Musgrave Harbour	Informal Resolution	2023-10-27	25			2023-12-01	25
Town of Torbay	Informal Resolution	2023-04-17	26			2023-05-24	26
Town of Musgrave Harbour	Informal Resolution	2024-01-05	27			2024-02-13	27
Department of Indigenous Affairs and Reconciliation	Informal Resolution	2023-09-06	29			2023-10-18	29
Department of Environment and Climate Change	Informal Resolution	2023-08-22	30			2023-10-04	30
Town of Portugal Cove-St. Philip's	Informal Resolution	2023-12-08	30			2024-01-24	30
Royal Newfoundland Constabulary	Informal Resolution	2023-07-04	31			2023-08-17	31
Royal Newfoundland Constabulary	Informal Resolution	2023-09-18	31			2023-11-01	31
Labour Relations Board	Informal Resolution	2024-01-19	31			2024-03-04	31
Town of Torbay	Informal Resolution	2023-05-05	31			2023-06-20	31
Office of the Premier	Informal Resolution	2023-03-23	33			2023-05-10	33
Department of Industry, Energy and Technology	Informal Resolution	2023-10-26	33			2023-12-12	33
Memorial University	Informal Resolution	2024-02-12	33			2024-03-28	33
Department of Justice and Public Safety	Informal Resolution	2024-01-25	33			2024-03-12	33

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Started	Days for Formal Review	Date Complaint Resolved	Total Days
Eastern Health	Informal Resolution	2023-03-14	34			2023-05-02	34
Central Health	Informal Resolution	2023-05-02	32	2023-06-16	2	2023-06-20	34
Town of Torbay	Informal Resolution	2023-09-13	34			2023-11-01	34
Town of Grand Falls-Windsor	Informal Resolution	2023-07-12	34			2023-08-30	34
Royal Newfoundland Constabulary	Informal Resolution	2023-09-21	35			2023-11-10	35
Royal Newfoundland Constabulary	Informal Resolution	2023-11-24	35			2024-01-17	35
Department of Health and Community Services	Informal Resolution	2023-05-15	36			2023-07-05	36
Memorial University	Informal Resolution	2024-01-29	37			2024-03-20	37
Town of St. George's	Informal Resolution	2023-12-14	37			2024-02-08	37
Department of Transportation and Infrastructure	Informal Resolution	2023-04-20	38			2023-06-14	38
Royal Newfoundland Constabulary	Informal Resolution	2023-10-18	38			2023-12-11	38
Town of Grand Falls-Windsor	Informal Resolution	2023-05-17	39			2023-07-12	39
Department of Industry, Energy and Technology	Informal Resolution	2023-04-26	40			2023-06-22	40
Royal Newfoundland Constabulary	Informal Resolution	2023-06-29	40			2023-08-25	40
Office of the Public Trustee	Informal Resolution	2023-12-05	41			2024-02-05	41
Town of Stephenville	Informal Resolution	2023-09-28	38	2023-11-22	3	2023-11-27	41
Town of Salmon Cove	Informal Resolution	2023-11-15	41			2024-01-16	41
Department of Health and Community Services	Informal Resolution	2023-12-05	42			2024-02-06	42
Department of Environment and Climate Change	Informal Resolution	2023-06-15	42			2023-08-15	42
Royal Newfoundland Constabulary	Informal Resolution	2023-12-06	42			2024-02-07	42
Town of Paradise	Informal Resolution	2023-12-13	44			2024-02-16	44
Department of Fisheries, Forestry and Agriculture	Informal Resolution	2023-10-05	33	2023-11-22	12	2023-12-08	45
Department of Industry, Energy and Technology	Informal Resolution	2023-05-10	45			2023-07-13	45
Department of Justice and Public Safety	Informal Resolution	2023-10-26	46			2024-01-03	46
City of St. John's	Informal Resolution	2023-05-16	46			2023-07-20	46
Town of Torbay	Informal Resolution	2023-08-23	46			2023-10-30	46
Department of Industry, Energy and Technology	Informal Resolution	2023-06-23	47			2023-08-30	47
Royal Newfoundland Constabulary	Informal Resolution	2023-10-16	47			2023-12-20	47
Royal Newfoundland Constabulary	Informal Resolution	2023-10-31	47			2024-01-09	47
Department of Education	Informal Resolution	2023-06-30	48			2023-09-08	48
Department of Education	Informal Resolution	2023-09-25	49			2023-12-04	49
Treasury Board Secretariat	Informal Resolution	2023-12-18	49			2024-02-28	49
Department of Industry, Energy and Technology	Informal Resolution	2023-04-26	49			2023-07-05	49
Department of Justice and Public Safety	Informal Resolution	2023-09-13	50			2023-11-23	50
Department of Indigenous Affairs and Reconciliation	Informal Resolution	2023-06-02	50			2023-08-14	50

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Started	Days for Formal Review	Date Complaint Resolved	Total Days
Royal Newfoundland Constabulary	Informal Resolution	2023-04-06	50			2023-06-19	50
Eastern Health	Informal Resolution	2023-06-12	50			2023-08-22	50
Newfoundland and Labrador English School District	Informal Resolution	2023-07-04	50			2023-09-14	50
Town of Torbay	Informal Resolution	2023-09-01	50			2023-11-14	50
Newfoundland and Labrador Housing Corporation	Informal Resolution	2023-11-01	51			2024-01-16	51
Memorial University	Informal Resolution	2024-01-16	51			2024-03-27	51
Department of Fisheries, Forestry and Agriculture	Informal Resolution	2023-08-14	52			2023-10-27	52
Department of Fisheries, Forestry and Agriculture	Informal Resolution	2023-02-08	53			2023-04-25	53
Eastern Health	Informal Resolution	2023-04-12	30	2023-05-25	24	2023-06-28	54
Department of Education	Informal Resolution	2023-06-14	55			2023-08-31	55
Department of Digital Government and Service NL	Informal Resolution	2023-06-14	55			2023-08-31	55
Town of Witless Bay	Informal Resolution	2023-08-18	55			2023-11-07	55
Town of Holyrood	Informal Resolution	2023-04-18	56			2023-07-06	56
Town of Marystown	Informal Resolution	2023-03-17	56			2023-06-07	56
Executive Council	Informal Resolution	2023-10-18	58			2024-01-11	58
Royal Newfoundland Constabulary	Informal Resolution	2023-06-27	42	2023-08-25	17	2023-09-20	59
Memorial University	Informal Resolution	2023-04-20	59			2023-07-13	59
Department of Health and Community Services	Informal Resolution	2023-08-04	60			2023-10-31	60
Department of Digital Government and Service NL	Informal Resolution	2023-10-05	60			2024-01-03	60
Town of Holyrood	Informal Resolution	2023-02-20	60			2023-05-16	60
Department of Municipal and Provincial Affairs	Informal Resolution	2023-07-31	61			2023-10-27	61
Department of Industry, Energy and Technology	Informal Resolution	2023-06-05	61			2023-08-30	61
Town of Terra Nova	Informal Resolution	2023-09-15	61			2023-12-12	61
Town of Terra Nova	Informal Resolution	2023-09-12	62			2023-12-08	62
Department of Children, Seniors and Social Development	Informal Resolution	2023-08-23	63			2023-11-22	63
Department of Intergovernmental Affairs Secretariat	Informal Resolution	2023-01-03	47	2023-03-09	16	2023-04-02	63
Department of Industry, Energy and Technology	Informal Resolution	2023-10-06	64			2024-01-10	64
Eastern Health	Informal Resolution	2023-03-21	65			2023-06-22	65
Town of Witless Bay	Informal Resolution	2023-11-14	65			2024-02-16	65
Town of Musgrave Harbour	Report	2023-12-27	23			2024-01-30	23
Department of Justice and Public Safety	Report	2023-09-28	35	2023-11-17	1	2023-11-20	36
Department of Justice and Public Safety	Report	2024-01-26	25	2024-03-01	19	2024-03-28	44
City of St. John's	Report	2023-10-10	29	2023-11-20	18	2023-12-14	47
Department of Justice and Public Safety	Report	2023-09-11	24	2023-10-16	25	2023-11-20	49
Memorial University	Report	2023-02-16	33	2023-04-04	21	2023-05-04	54
Town of Witless Bay	Report	2023-04-28	21	2023-05-30	35	2023-07-18	56

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Started	Days for Formal Review	Date Complaint Resolved	Total Days
Department of Finance	Report	2023-10-06	37	2023-11-29	20	2023-12-29	57
Town of Holyrood	Report	2023-03-14	37	2023-05-07	20	2023-06-06	57
Town of Musgrave Harbour	Report	2023-12-01	58			2024-02-26	58
Office of the Child and Youth Advocate	Report	2023-04-06	56	2023-06-27	2	2023-06-29	58
NL Hydro	Report	2023-05-17	53	2023-08-02	6	2023-08-11	59
Town of Grand Falls-Windsor	Report	2023-08-08	30	2023-09-20	29	2023-11-01	59
Town of Musgrave Harbour	Report	2023-11-30	59			2024-02-26	59
Department of Justice and Public Safety	Report	2023-08-23	36	2023-10-16	25	2023-11-20	61
Town of Stephenville	Report	2023-09-05	49	2023-11-14	12	2023-11-30	61
Executive Council	Report	2023-02-22	61	2023-05-19	1	2023-05-23	62
Department of Justice and Public Safety	Report	2023-11-20	57	2024-02-12	5	2024-02-19	62
Department of Justice and Public Safety	Report	2023-11-20	57	2024-02-12	5	2024-02-19	62
Department of Justice and Public Safety	Report	2023-11-20	57	2024-02-12	5	2024-02-19	62
Department of Justice and Public Safety	Report	2023-11-20	57	2024-02-12	5	2024-02-19	62
Newfoundland and Labrador English School District	Report	2023-04-10	55	2023-06-27	7	2023-07-06	62
Town of Victoria	Report	2023-10-17	40	2023-12-12	22	2024-01-16	62
Office of the Chief Information Officer	Report	2023-04-19	45	2023-06-22	18	2023-07-18	63
Department of Municipal and Provincial Affairs	Report	2023-12-14	53	2024-03-01	10	2024-03-15	63
Eastern Health	Report	2023-03-07	36	2023-04-27	27	2023-06-06	63
Memorial University	Report	2023-10-16	59	2024-01-10	4	2024-01-16	63
Memorial University	Report	2023-10-18	37	2023-12-08	26	2024-01-18	63
City of Corner Brook	Report	2023-06-20	30	2023-08-01	33	2023-09-19	63
Town of Musgrave Harbour	Report	2023-02-08	53	2023-04-25	10	2023-05-09	63
House of Assembly	Report	2023-09-01	44	2023-11-06	19	2023-12-01	63
Department of Education	Report	2023-04-03	59	2023-06-27	5	2023-07-04	64
Executive Council	Report	2023-12-18	45	2024-02-22	19	2024-03-20	64
Department of Justice and Public Safety	Report	2023-08-24	40	2023-10-23	24	2023-11-24	64
Department of Justice and Public Safety	Report	2023-10-23	32	2023-12-06	32	2024-01-24	64
Office of the Premier	Report	2023-01-13	52	2023-03-28	12	2023-04-14	64
Department of Environment and Climate Change	Report	2023-02-02	43	2023-04-04	21	2023-05-04	64
Department of Fisheries, Forestry and Agriculture	Report	2023-05-30	28	2023-07-07	36	2023-08-29	64
Royal Newfoundland Constabulary	Report	2023-02-02	33	2023-03-21	31	2023-05-04	64
Independent Appointment Commission	Report	2023-01-06	52	2023-03-21	12	2023-04-06	64
Eastern Health	Report	2023-07-07	48	2023-09-15	16	2023-10-10	64
College of the North Atlantic	Report	2023-08-10	31	2023-09-25	33	2023-11-10	64
Memorial University	Report	2023-03-29	32	2023-05-15	32	2023-06-29	64
Memorial University	Report	2023-08-30	49	2023-11-09	15	2023-11-30	64
City of St. John's	Report	2023-06-27	48	2023-09-05	16	2023-09-27	64
Town of Grand Falls-Windsor	Report	2023-04-05	45	2023-06-09	19	2023-07-06	64
City of Mount Pearl	Report	2023-02-02	48	2023-04-12	16	2023-05-04	64

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Started	Days for Formal Review	Date Complaint Resolved	Total Days
Town of Musgrave Harbour	Report	2023-04-12	21	2023-05-11	43	2023-07-12	64
Town of Musgrave Harbour	Report	2023-04-12	21	2023-05-11	43	2023-07-12	64
Town of Musgrave Harbour	Report	2023-10-27	64			2024-01-30	64
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Justice and Public Safety	Report	2023-08-01	33	2023-09-19	32	2023-11-03	65
Department of Tourism, Culture, Arts and Recreation	Report	2023-05-04	23	2023-06-07	42	2023-08-07	65
Royal Newfoundland Constabulary	Report	2023-12-14	57	2024-03-07	8	2024-03-19	65
Arts NL	Report	2023-07-21	35	2023-09-12	30	2023-10-25	65
Memorial University	Report	2023-11-06	44	2024-01-10	21	2024-02-08	65
Memorial University	Report	2023-11-06	44	2024-01-10	21	2024-02-08	65
Memorial University	Report	2023-11-06	44	2024-01-10	21	2024-02-08	65
Memorial University	Report	2023-11-06	44	2024-01-10	21	2024-02-08	65
Town of Musgrave Harbour	Report	2023-12-27	48	2024-03-05	17	2024-03-28	65
Town of Port au Port East	Report	2023-01-06	64	2023-04-06	1	2023-04-10	65
Town of Port au Port East	Report	2023-01-06	64	2023-04-06	1	2023-04-10	65
Town of Port au Port East	Report	2023-01-06	64	2023-04-06	1	2023-04-10	65
Town of Port au Port East	Report	2023-01-06	64	2023-04-06	1	2023-04-10	65
Town of Port au Port East	Report	2023-01-06	64	2023-04-06	1	2023-04-10	65
Royal Newfoundland Constabulary	Commissioner Refused to Investigate (s. 45)	2023-06-22	32			2023-08-08	32
Department of Environment and Climate Change	Commissioner Refused to Investigate (s. 45)	2023-08-30	53			2023-11-15	53
Commissioner for Legislative Standards	Commissioner Refused to Investigate (s. 45)	2023-08-18	53			2023-11-03	53
Department of Environment and Climate Change	Commissioner Refused to Investigate (s. 45)	2023-06-16	54			2023-09-01	54
Department of Digital Government and Service NL	Commissioner Refused to Investigate (s. 45)	2023-06-27	54			2023-09-13	54
Royal Newfoundland Constabulary	Commissioner Refused to Investigate (s. 45)	2023-06-29	40	2023-08-25	17	2023-09-20	57
Executive Council	Commissioner Refused to Investigate (s. 45)	2023-01-30	64			2023-05-01	64

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Started	Days for Formal Review	Date Complaint Resolved	Total Days
Department of Fisheries, Forestry and Agriculture	Commissioner Refused to Investigate (s. 45)	2023-02-08	64			2023-05-10	64
Royal Newfoundland Constabulary	Commissioner Refused to Investigate (s. 45)	2023-11-10	60	2024-02-07	4	2024-02-13	64
Royal Newfoundland Constabulary	Commissioner Refused to Investigate (s. 45)	2023-12-21	64			2024-03-25	64
Department of Education	Commissioner Refused to Investigate (s. 45)	2023-08-01	32	2023-09-18	33	2023-11-03	65
Office of the Premier	No Jurisdiction	2023-05-16	0			2023-05-16	0
Treasury Board Secretariat	No Jurisdiction	2023-05-16	0			2023-05-16	0
Department of Industry, Energy and Technology	No Jurisdiction	2023-05-16	0			2023-05-16	0
Office of Women and Gender Equality	No Jurisdiction	2023-05-16	0			2023-05-16	0
Town of St. George's	No Jurisdiction	2023-11-15	0			2023-11-15	0
Town of Musgrave Harbour	No Jurisdiction	2023-10-10	0			2023-10-10	0
Town of Musgrave Harbour	No Jurisdiction	2023-10-10	0			2023-10-10	0
Town of Musgrave Harbour	No Jurisdiction	2023-10-10	0			2023-10-10	0
Town of Musgrave Harbour	No Jurisdiction	2023-10-10	0			2023-10-10	0
Town of St. George's	No Jurisdiction	2023-11-14	1			2023-11-15	1
Department of Children, Seniors and Social Development	No Jurisdiction	2023-03-29	5			2023-04-05	5
Department of Education	No Jurisdiction	2023-10-16	8			2023-10-26	8
Memorial University	No Jurisdiction	2023-10-30	8			2023-11-09	8
City of St. John's	No Jurisdiction	2023-06-30	9			2023-07-13	9
Town of Gambo	Withdrawn	2024-03-25	0			2024-03-25	0
Department of Fisheries, Forestry and Agriculture	Withdrawn	2023-09-29	0			2023-09-29	0
Department of Health and Community Services	Withdrawn	2024-02-06	2			2024-02-08	2
Department of Education	Withdrawn	2023-09-25	3			2023-09-28	3
Royal Newfoundland Constabulary	Withdrawn	2023-09-28	4			2023-10-04	4
Memorial University	Withdrawn	2023-12-01	5			2023-12-08	5
Town of Carbonear	Withdrawn	2023-12-21	7			2024-01-04	7
Town of Grand Falls-Windsor	Withdrawn	2024-02-12	7			2024-02-21	7
Memorial University	Withdrawn	2024-02-26	8			2024-03-07	8
Memorial University	Withdrawn	2024-02-26	8			2024-03-07	8
Town of Carbonear	Withdrawn	2023-12-21	8			2024-01-05	8
Town of Victoria	Withdrawn	2024-01-11	9			2024-01-24	9
Department of Industry, Energy and Technology	Withdrawn	2023-10-26	10			2023-11-09	10
Department of Municipal and Provincial Affairs	Withdrawn	2023-11-28	12			2023-12-14	12
Town of Port au Port East	Withdrawn	2023-05-02	28			2023-06-12	28
Town of Port au Port East	Withdrawn	2023-05-02	28			2023-06-12	28
Town of Port au Port East	Withdrawn	2023-05-02	28			2023-06-12	28
Town of Port au Port East	Withdrawn	2023-05-01	29			2023-06-12	29
Town of Port au Port East	Withdrawn	2023-05-01	29			2023-06-12	29
Town of Trepassey	Withdrawn	2023-07-25	58			2023-10-18	58

Appendix C

**Timelines (business days) for Privacy Complaints for the
2023-2024 Reporting Period under the
Access to Information and Protection of Privacy Act, 2015**

Public Body	Means of Resolution	Review Started	Date Complaint Resolved	Total Days
Town of Peterview	Informal Resolution	2023-05-18	2023-07-14	41
Department of Health and Community Services	Informal Resolution	2023-03-06	2023-05-15	50
Town of Port au Port East	Informal Resolution	2023-02-14	2023-04-26	51
Town of Steady Brook	Informal Resolution	2023-03-14	2023-06-19	69
Town of Holyrood	Informal Resolution	2023-05-12	2023-09-26	97
City of St. John's	Informal Resolution	2023-09-08	2024-02-02	105
Department of Education	Informal Resolution	2023-09-25	2024-02-22	108
Public Service Commission	Informal Resolution	2022-11-07	2023-04-13	113
Department of Education	Informal Resolution	2023-09-14	2024-02-22	115
Town of Heart's Delight-Islington	Informal Resolution	2023-05-03	2023-12-06	155
Department of Environment and Climate Change	Report	2023-07-12	2024-03-27	185
Department of Health and Community Services	Report	2022-04-07	2023-05-24	294
Eastern Health	Report	2022-04-07	2023-05-24	294
Labrador - Grenfell Health	Report	2022-04-07	2023-05-24	294
Central Health	Report	2022-04-07	2023-05-24	294
Newfoundland and Labrador Centre for Health Information (NLCHI)	Report	2022-04-07	2023-05-24	294
Royal Newfoundland Constabulary	Report	2018-03-23	2023-08-31	1419*
Royal Newfoundland Constabulary	Report	2018-03-23	2023-08-31	1419*
Human Rights Commission	Commissioner Refused to Investigate (s. 75)	2023-04-20	2023-05-18	20
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-05-01	2023-06-08	28
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30

Public Body	Means of Resolution	Review Started	Date Complaint Resolved	Total Days
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-27	2023-06-08	30
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-14	2023-06-08	39
Town of Pouch Cove	Commissioner Refused to Investigate (s. 75)	2023-04-14	2023-06-08	39
Royal Newfoundland Constabulary	Commissioner Refused to Investigate (s. 75)	2023-05-29	2023-07-27	43
Department of Digital Government and Service NL	Commissioner Refused to Investigate (s. 75)	2023-07-12	2023-10-10	64
Western Health	Commissioner Refused to Investigate (s. 75)	2022-04-07	2023-05-30	298
Department of Environment and Climate Change	Declined to Investigate	2023-08-16	2023-08-16	0
Memorial University	Declined to Investigate	2023-05-04	2023-05-10	4
Town of Holyrood	Declined to Investigate	2023-04-18	2023-04-25	5
Newfoundland and Labrador Liquor Corporation	No Jurisdiction	2024-01-15	2024-01-16	1
Town of Gander	No Jurisdiction	2024-02-23	2024-02-27	2
Town of Port au Port East	No Jurisdiction	2023-05-02	2023-05-04	2

Public Body	Means of Resolution	Review Started	Date Complaint Resolved	Total Days
Town of Port au Port East	No Jurisdiction	2023-03-30	2023-04-05	4
Department of Children, Seniors and Social Development	No Jurisdiction	2023-03-29	2023-04-05	5
Department of Digital Government and Service NL	No Jurisdiction	2023-11-15	2023-12-06	15
Department of Children, Seniors and Social Development	No Jurisdiction	2023-06-27	2023-07-20	17
Workplace NL	No Jurisdiction	2023-06-19	2023-07-12	17
Workplace NL	Withdrawn	2024-03-01	2024-03-07	4
Public Service Commission	Withdrawn	2024-01-19	2024-02-02	10
Treasury Board Secretariat	Withdrawn	2023-03-14	2023-04-14	23
City of St. John's	Withdrawn	2023-08-23	2023-12-11	78
Department of Transportation and Infrastructure	Withdrawn	2023-02-09	2023-09-21	160

*These privacy investigations had been placed on hold pending the outcome of related prosecutions. They were further delayed as the Crown appealed the acquittal of one defendant. The appeal was heard in October 2021 and the acquittal was subsequently upheld. The privacy complaint investigations resumed in January 2022.

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