



CONTACT INFORMATION

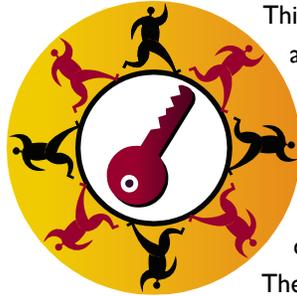
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“The manner in which public bodies respond to our involvement is a key factor in how the public measures the true commitment of the government and its agencies to the principles and spirit of the legislation.”

*OIPC Annual Report
2009-2010*

ABOVE BOARD

A QUARTERLY NEWSLETTER PUBLISHED BY THE
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This is the first edition of our newsletter “**Above Board**”, which is aimed at educating and informing municipalities about issues involving privacy and access to information, and about their roles and responsibilities in relation to the **Access to Information and Protection of Privacy Act (ATIPPA)**. The decision to create this newsletter arose from the responses we received to a survey we conducted in late 2010/early 2011 (**ATIPPA Public Bodies Survey**). The responses from municipalities made it clear that there remains a lack of awareness of the legal obligations of municipalities under the **ATIPPA**, as well as the role that must be played by municipal Access and Privacy Coordinators (as explained on page 3). In this inaugural newsletter we hope to shed light on these topics and offer some resources for municipalities to better service their mandate under this important law.



Access & Privacy

Access to Information and Protection of Privacy Act (ATIPPA)



The purpose of the **ATIPPA** is to make public bodies more open and accountable and to protect individual privacy. The legislation governs access to records in the custody of or under the control of a public body, and sets out requirements for the collection, use and disclosure of personal information contained in the records of public bodies.

All municipalities are considered to be public bodies as defined by the **ATIPPA**, and are therefore subject to the **ATIPPA**. The **ATIPPA** allows people to file access to information requests to municipalities, and requires municipalities to protect the personal information of their residents which is in their custody or under their control.



The OIPC - Who We Are and What We Do?

The Commissioner

Ed Ring has had a long and distinguished career in the Canadian Armed Forces (Army) spanning 34 years, serving with both the Regular and Reserve components.



Mr. Ring began his employment with the provincial public service as Director, Policing Services with the Department of Justice for four years. Subsequently he moved to the Public Service Commission in 1997 and initially worked as a Staffing Officer, and from 2002 – 2007 as Director of Appeals and Investigation Division. Mr. Ring was appointed Information and Privacy Commissioner for Newfoundland and Labrador on December 17, 2007 and was reappointed for another two year term on June 24, 2010.

The Office of the Information and Privacy Commissioner (OIPC) is an independent Office of the House of Assembly. It is comprised of a Commissioner, Assistant Commissioner, Access and Privacy Analysts, a Mediation, Communications and Policy Analyst, a Business Manager and support staff. The Commissioner has a broad range of responsibilities and powers under both the *ATIPPA* and the newly proclaimed *Personal Health Information Act (PHIA)*.

Normally, a public body (such as a municipality) would not have much direct contact with the OIPC unless there has been a privacy complaint made against the public body, or unless a member of the public has filed an access to information request to the public body, and they are not satisfied with the response. In those cases, the individual can come to the OIPC to ask us to conduct a review. If that happens, we will contact the public body to advise that the complaint or request for review has been made, and we will explain the process from there. More often than not, we tend to resolve these matters informally, but when this cannot be done, the Commissioner will issue a formal report. To view our reports, please visit our web site at www.oipc.nl.ca.



The ATIPP Office Who They Are and What They Do?

The Access to Information and Protection of Privacy (ATIPP) Office, Department of Justice, oversees the implementation and coordination of the *ATIPPA*, and carries the primary role for training access and privacy coordinators. That office should be the first point of contact for any questions about a particular access to information request, or about advice involving the collection, use or disclosure of personal information.

Some of its key functions include:

- providing education and training to public bodies;
- providing leadership and advice in interpretation and administration of the *ATIPPA*;
- liaising with Access and Privacy Coordinators in each public body;
- ensuring that appropriate processes are implemented and maintained in each public body.

To assist you in continuing to provide quality service to applicants, the **ATIPP Office** maintains **online support in the form of policy and procedure manuals, FAQ's, ATIPP training, and information on how to handle a privacy breach.**

Contact Information: Access to Information and Protection of Privacy Office
Department of Justice, 5th Floor, West Block, Confederation Building
P.O. Box 8700, Station "A", St. John's, NL A1B 4J6
Telephone: (709) 729-7072 or Fax: (709) 729-5466

Role of Access and Privacy Coordinators Under the ATIPPA



Sections 66 and 67 specifically set out the responsibilities of “local public bodies” and “public bodies” with respect to the ATIPPA. Municipalities are required to designate a “head” and a “coordinator,” often referred to as an access & privacy coordinator. The legislation places the onus on the head to administer provisions of the ATIPPA and the head will be accountable under the Act, however, the head is permitted to delegate responsibilities to a person on staff.

Municipalities often choose the Town Clerk or Town Manager to fulfill these roles, but are free to choose any individual or group to act as the “head”, while any employee can be chosen to take on the role of “coordinator”. In many smaller municipalities these roles may be combined.

For further advice on compliance with these provisions, please contact the ATIPP office.

A good practice for municipalities would be to inform both the OIPC and the ATIPP Office whenever there is a change in coordinators. This will allow both of these offices to stay informed and work with you more effectively.



Designation of Head by Local Public Body

Designation of head by local public body

66. A local public body shall, by by-law, resolution or other instrument, designate a person or group of persons as the head of the local public body for the purpose of this Act.

Designation and delegation by the head of a public body

67. (1) The head of a public body shall designate a person on the staff of the public body to
- (a) receive and process requests made under this Act;
 - (b) co-ordinate responses to requests for approval by the head of the public body;
 - (c) educate staff of the public body about the applicable provisions of this Act;
 - (d) track requests made under this Act and the outcome of the request; and
 - (e) prepare statistical reports on requests for the head of the public body.
- (2) The head of a public body may delegate to a person on the staff of the public body a duty or power of the head under this Act.

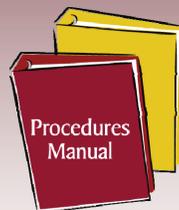
Resource List



- <http://www.justice.gov.nl.ca/just/info/schedule.html> (ATIPPA, Regulations and Fee Schedule)
- <http://www.justice.gov.nl.ca/just/department/branches/division/atipp.html> (ATIPP Office)
- <http://www.justice.gov.nl.ca/just/info/index.html> (Department of Justice: Accessing Information and Protecting Privacy)
- http://www.justice.gov.nl.ca/just/info/municipalities_faq.pdf (Municipalities FAQs)
- http://www.justice.gov.nl.ca/just/info/access_policy_and_procedures_manual.pdf (Access Policy & Procedures Manual)
- http://www.justice.gov.nl.ca/just/info/privacy_policy_and_procedures_manual.pdf (Privacy Policy & Procedures Manual)
- <http://www.justice.gov.nl.ca/just/info/privacybreach.html> (Privacy Breach Protocol)
- http://www.justice.gov.nl.ca/just/atipp_training/index.html (ATIPP Training)
- www.oipc.nl.ca (Office of the Information and Privacy Commissioner)

Tools to Help Your Municipality Comply with ATIPPA

A key tool for municipalities to be familiar with is the ATIPPA legislation itself, along with its Regulations and Fee Schedule. These documents are essentially the “rule book” when it comes to access to information and protection of privacy issues. Other very important tools are the Access and Privacy Policy and Procedures Manuals published by the provincial Department of Justice, ATIPP Office.



These Manuals offer information on the proper policies and procedures to adopt in order to ensure compliance with the ATIPPA. They also include sample letters and forms which can be adopted for use by a municipality when they are preparing a response to an access to information request, or in the event of a privacy breach. The Manuals produced by the ATIPP Office will help you translate the ATIPPA itself into helpful, everyday practices.

TIPS

- ◆ Records in custody (possession) or under control (authority to manage) of a municipality are subject to the ATIPPA (unless a specific exclusion applies) [section 5(1)].
- ◆ Destruction of records should be in accordance with your records retention regulation or resolution [section 5(2)(b)], unless an individual's personal information was used to make a decision directly affecting them, so that you must retain that information for at least one year [section 37].