



**NEWS RELEASE**

**For immediate release**

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**Information and Privacy Commissioner publishes submission for the legislative review of Nova Scotia's access and privacy laws**

**HALIFAX** – Information and Privacy Commissioner Tricia Ralph has provided her submission to the internal working group reviewing Nova Scotia's access and privacy laws.

As it has been 30 years since the *Freedom of Information and Protection of Privacy Act (FOIPOP)* was enacted, this legislative review is enthusiastically welcomed. “The decision to review Nova Scotia's access and privacy laws is a good first step forward in advancing the access and privacy rights of the public,” says Commissioner Ralph. “It is not easy to initiate a review of laws that will likely enable greater scrutiny of public bodies' decisions.”

There is much work to be done. Throughout Canada, provinces and territories have modernized their privacy and access laws but Nova Scotia has not. The Commissioner notes that “There is no question Nova Scotia has fallen behind in comparison with its counterparts. It is long past time that Nova Scotia modernizes its laws.”

Commissioner Ralph's submission to the internal working group makes recommendations to strengthen not only the laws but also the entire access and privacy regime in Nova Scotia by focusing on four core areas: organization and coverage, modernizing access rights, modernizing privacy rights, and improving oversight.

Many of her recommendations were set out in two previously released reports by the Office of the Information and Privacy Commissioner (OIPC): a 2017 special report titled [Accountability for the Digital Age, Modernizing Nova Scotia's Access & Privacy Laws](#), and the OIPC's [2021-2022 Annual Report](#). This submission does not repeat those recommendations but instead adds to them. All three documents should be read together. Because these earlier reports were so comprehensive, this submission predominantly focuses on two main areas: privacy, and oversight of access to information.

In terms of privacy, advances in data-driven technologies have exponentially exploded in the years since the laws came into force. When *FOIPOP* was enacted in 1994, Google didn't yet exist. Most developments in artificial intelligence arose after Nova Scotia enacted its *Privacy Review Officer Act* in 2009. Modern data-driven technologies have incredible potential to bring great benefits to individuals, but they also come with great risk. It is critically important that the laws are updated to protect the privacy rights of individuals alongside these developments. “As many before me have said, privacy and innovation should go hand in hand – it is not a zero-sum game,” says Commissioner Ralph.



In terms of access to information, public bodies' actions over the past 30 years demonstrate that stronger statutory oversight provisions are needed to protect the public's ability to exercise their right to information. Review reports from the OIPC demonstrate that Nova Scotians are often wrongly denied access to the information they are legally entitled to. It is common for public bodies to reject recommendations issued by the Commissioner to release information to applicants. "It is clear the current recommendation-making model does not ensure compliance with the law," says Commissioner Ralph. For this reason, she advocates that "Some form of order-making model is needed to hold public bodies to account."

The other main access to information oversight issue is the OIPC's lack of independence. Nova Scotia is the only jurisdiction in Canada that has not made its Commissioner an independent officer of the House of Assembly. She must seek budget approvals through a department she oversees. This affects almost all aspects of the OIPC's work, most notably its staffing. "No one can deny that the OIPC's current four-year backlog is unacceptable," says Commissioner Ralph. Despite this, the OIPC's requests for sufficient staffing are repeatedly denied. This hinders the OIPC's ability to fulfill its primary mandate to provide timely and independent oversight over public bodies' decisions to withhold information. "I believe the current funding model in Nova Scotia is contrary to the OIPC's oversight mandate," says Commissioner Ralph.

The Commissioner notes that future amendments to the laws must be accompanied by adequate funding and a significant cultural change that better respects the public's right to public body information, with few exceptions. "Legislative changes become hollow if you cannot implement them," says Commissioner Ralph. She adds that "More and more, I see a culture of public bodies approaching the laws by withholding everything they can (or think they can). This is not in keeping with the purpose, spirit, and intent of the law to give every Nova Scotian the right to all public body information, with few limitations." Withholding information should be the exception and not the norm. Strong leadership is needed to address this concerning issue.

In this light, the submission also includes recommendations that would improve the whole access and privacy regime in Nova Scotia. Addressing culture and funding needs as much attention as the legislative review. Changes in all these areas are needed to allow the OIPC to fulfill its mandate.

"My primary request for this legislative review is a simple one – please let me and my office do our jobs," says Commissioner Ralph.

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