



Office of the Information and Privacy Commissioner for Nova Scotia

Know Your Rights

How to Make an Effective Access to Information Request

Notice to Users

This document is intended to provide general information and it is not intended nor can it be relied upon as legal advice. The contents of this document do not fetter or bind this office with respect to any matter. The Information and Privacy Commissioner for Nova Scotia will keep an open mind if this office receives a review request (appeal) on the subject matter of this document. As an independent agency mandated to oversee compliance with *FOIPOP* and *Part XX* of the *MGA* the Office of the Information and Privacy Commissioner for Nova Scotia cannot investigate in advance any concerns from an applicant related to an access to information request, so if there are concerns with a public body's or municipality's decision, the applicant must file a review request for this office to investigate the issue and to provide recommendations in response to those appeals. It remains the responsibility of each public body or municipality to ensure that it complies with its responsibilities under the relevant legislation.

INTRODUCTION

Under Nova Scotia's access to information laws, anyone can make an application for access to a record ("access to information request"). This document is part of our series entitled *Know Your Rights* and is intended to help citizens understand how to make an access to information request and how to interpret the information they get back from public bodies and municipalities.

Public bodies and municipalities have a duty to assist those who make access to information requests. Although applicants have a right to access information, applicants also have duties. Applicants are required to specify the subject matter of the records requested with sufficient particulars to enable an individual familiar with the subject matter to identify the records. Applicants are also required to pay all prescribed fees.

Please see our [Glossary: Review Request Terms](#) for help understanding terms in this document and terms that appear frequently during the review process.

LEGISLATION

Applicant responsibilities are set out in section 6(1)(a) of the *Freedom of Information and Protection of Privacy Act*, which states:

- 6 (1) A person may obtain access to a record by
- (a) making a request in writing to the public body that has the custody or control of the record;
 - (b) specifying the subject-matter of the record requested with sufficient particulars to enable an individual familiar with the subject-matter to identify the record; and
 - (c) paying any fees required pursuant to Section 11.

Section 466(1)(a) of *Part XX* of the *Municipal Government Act* states:

- 466 (1) A person may obtain access to a record by
- (a) making a request in writing to the municipality that has the custody or control of the record;
 - (b) specifying the subject matter of the record requested with sufficient particulars to enable an individual familiar with the subject matter to identify the record; and
 - (c) paying any fees required pursuant to this Part.

BEFORE MAKING AN ACCESS TO INFORMATION REQUEST

Step 1: Conduct your own internet search

An effective strategy is to conduct your own internet search for the information you seek. Governments publish numerous documents and data sets online. Staff may not necessarily be aware of all of the publicly available information. Spending 30 minutes conducting your

own search can save you weeks or months of waiting and will also save you the application and processing fee costs associated with some access to information requests.

We've compiled a [list of publicly available government information](#) which can be found on our website. In addition, the Government of Nova Scotia proactively discloses [responses to access to information requests](#) subject to certain requirements.¹

Tip #1: Conduct research before filing an access to information request.

Step 2: Call the public body or municipality

Call the public body or municipality you think has the records you want before you make the request. Talk to them about the types of records they have relating to the topic that interests you. Knowledgeable staff within a public body or municipality may be able to point you to publicly available information that satisfies your request. They may also identify other public bodies or municipalities that could have the records you seek. They may suggest ways in which you should write your access to information request that will help them find the records you want. This may save you time and money.

We maintain [a list of public body/municipality contact information](#) on our website.

MAKING AN ACCESS TO INFORMATION REQUEST

Step 3: Craft your access to information request

So how do you write an effective access to information request? Be as precise as possible.

If you cannot locate the information you seek from publicly available sources, you will need to draft a written access to information request. You can simply write out your request stating you are making it under the *Freedom of Information and Protection of Privacy Act* or *Part XX of the Municipal Government Act* or you can use the prescribed form known as a "Form 1". This form is available at: <https://oipc.novascotia.ca/forms>.

Applicants are required to provide sufficient particulars to enable an individual familiar with the subject matter to identify the records. This means specifying the subject matter of the records sought as precisely as possible and providing sufficient details such as information relating to the time, place, event and who might hold the records whenever possible. Also make sure to include your contact information so that the public body or municipality can respond to your request.

¹ <https://beta.novascotia.ca/documents/foipop-information-access-response-disclosure-criteria>

When drafting your access to information request, remember the “**Five W’s**”:

1. **What** information are you seeking? Describe the information you are seeking clearly and precisely. Don’t ask for more than you want – this increases costs and slows down the response time from public bodies and municipalities.
2. **Who** do you think has the information? Provide the names or position titles of individuals you think may have responsive information. You can ask that just the records held by those identified individuals be searched, or you can indicate that you want a broad search that should include the identified individuals.
3. **Where** do you think the information is? Specify the program areas you think may have the records (if you know). If there are certain storage media you particularly want searched, specify the media such as databases, other electronic records, email, paper and video.
4. **When** was the information created or what date range are you interested in? Be as specific and focussed as possible. This will reduce the cost of the request but more importantly it will help the public body or municipality find the records you are seeking.
5. **Why** was the information created? If you know some history behind the creation of the information you seek, it is often helpful to say so. For example, perhaps you know that as a result of an incident on July 1, 2008, a special workplace safety investigation was conducted. Providing this type of information may help the public body or municipality locate the requested records.

Tip #2: Make your access to information request as precise as possible.

Step 4: Send your request and application fee

Once you have filled out your request, send it to the public body or municipality you think is most likely to have copies of the records. We maintain [a list of public body and municipality contact information](#) on our website. Remember to date your request and keep a copy for your own records. This will help you keep track of what you requested, who you made your request to, and when you sent it. You will also need it if you need to file a review request (appeal) with this office.

Also remember to include the \$5 application fee if you have requested general information. There is no fee for requesting your own personal information.

Tip #3: When an individual makes a request for her own personal information, no fees can be charged.

AFTER MAKING AN ACCESS TO INFORMATION REQUEST

Step 5: Follow up with the public body or municipality

Once you have submitted your access to information request, do not hesitate to call the public body or municipality to make sure they received your request and understand what you are seeking.

Tip #4: Keep in contact with the public body or municipality.

WHAT NEXT?

The law requires that the public body or municipality respond to your request within 30 days. If the public body or municipality requires a time extension, they must notify you. For more information on time extensions, see our [Time Extension Guidelines](#) for public bodies and municipalities.

Public bodies and municipalities may also contact you to inform you that you must pay some processing fees. Usually they will ask you to pay a deposit. If you do not want to pay fees you have five choices:

1. Request a fee waiver from the public body or municipality. You cannot request a waiver of the \$5 application fee which is a mandatory fee unless you are requesting your own personal information. You can request a waiver of processing fees. For more information on fees, see our publication [Duty to Assist #4: How to Calculate Fees Guidelines for Public Bodies and Municipalities](#).
2. Redraft your request to limit the scope. For example, if you shorten the time frame, limit the number of individuals who need to conduct a search, limit the subject matter, this might mean less work for the public body or municipality and could mean less fees or no fees for you.
3. Withdraw your request.
4. File a request for review of the fee with this office. Please note that before filing a request for review with this office, you must have completed option #1 in this list by requesting a fee waiver from the public body or municipality and received a decision from them first.
5. File an appeal of the fee with the Nova Scotia Supreme Court.²

When you receive the response to your access to information request, review it carefully. If you have questions about what you receive, call the public body or municipality. Remember, you have a right to request a review (appeal) of the public body's or municipality's decision in response to your access to information request within 60 days.

² This appeal is made directly to the Supreme Court. Per s. 41(5) of the *Freedom of Information and Protection of Privacy Act* / s. 494(5) of *Part XX of the Municipal Government Act*, the Information and Privacy Commissioner is not a party to a court appeal.

QUESTIONS?

This guidance was prepared by the Office of the Information and Privacy Commissioner for Nova Scotia. Whether you are an applicant, a public body or a municipality, we encourage you to contact us if you have any questions about the access to information process in Nova Scotia.

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