



**ANNUAL ACCOUNTABILITY REPORT FOR THE FISCAL YEAR
2013-2014**

Final
July 21, 2014

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ACCOUNTABILITY STATEMENT

The Accountability Report of the Freedom of Information and Protection of Privacy Review Office [“Review Office”] for the year ended March 31, 2014 is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Review Office’s Statement of Mandate for the fiscal year 2013-2014. The reporting of the Review Office’s outcomes necessarily includes estimates, judgments and opinions by the Freedom of Information and Protection of Privacy Review Officer [“Review Officer”].

I acknowledge that this Accountability Report is the responsibility of the Review Officer. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Review Office’s 2013-2014 Statement of Mandate.

This Accountability Report is consistent with what will be reported in the 2013 Annual Report; however, because the Annual Report is based on the fiscal rather than the calendar year the statistics found in this Accountability Report are for the year 2013.

Carmen Stuart, CIAPP-M
Acting Freedom of Information and Protection of Privacy Review Officer
Privacy Review Officer
Deputy Head
July 21, 2014

**MESSAGE FROM THE ACTING FREEDOM OF INFORMATION AND PROTECTION
OF PRIVACY REVIEW OFFICER/ DEPUTY HEAD**

I am pleased to provide the Review Office's Accountability Report for 2013-2014. The Review Officer is established as the statutory independent oversight body under the *Acts*¹ with the mandate to investigate and review decisions made by provincial public bodies, municipalities, and personal health information custodians ["custodians"] regarding access to information requests and correction of personal information requests. The Review Officer is also the oversight for privacy complaints for provincial public bodies and custodians.

The Review Office was particularly busy during 2013-2014. We engaged in a number of initiatives intended to improve our process that is taxed.

This included an attempted position re-organization that would reflect the actual needs of the office, while recognizing and retaining existing expertise. The Review Office also underwent two separate process review audits – one internal and one commissioned by the Department of Justice and conducted by the Treasury Board Office. We learned much about what we do well and what we can do better.

The Review Office was faced with some instability in the last quarter of the period due to the end of the former Review Officer's term. This had a domino effect within the office; however the dedication, expertise and experience of the Review Office team has minimized the disruption and productivity has been maintained. We are now fully functional with six full time staff and one temporary agency hire for administrative support.

I am able to report that the Review Office has largely achieved its goals. In those cases where full realization of the goal was not possible, I am satisfied that the Review Office has done its due diligence and made all reasonable efforts to achieve its goal.

Respectfully submitted,

Carmen Stuart, CIAPP-M
Acting Freedom of Information and Protection of Privacy Review Officer

¹ *Freedom of Information and Protection of Privacy Act [FOIPOP Act]; Part XX of the Municipal Government Act [MGA]; Privacy Review Officer Act [PRO Act]; and Personal Health Information Act [PHIA]*, referred to collectively as "the Acts".

FINANCIAL RESULTS

Freedom of Information and Protection of Privacy Review Office 2013-2014		
	2013-2014 Estimate	2013-2014 Actual
	(\$ thousands)	(\$ thousands)
Program Expenses	112	92.9*
Salaries and Employee Benefits	448	496.5
Subtotal	560	598.4
Less Chargeables to Other Departments (Salary Increases)	0	30.3
TOTAL	560	559.10
Funded Staff (FTEs)	6	5.89

*\$40,600 of this was to fund the administrative position, which is not recorded in salaries/benefits and is not reflected in the FTE count. The remaining \$52,300 was all costs associated with running the office, such as rent and supplies.

MEASURING OUR PERFORMANCE

Measuring Our Performance as identified in the 2013-2014 Statement of Mandate:

1. Requests for Review of Public Body Access Decisions

Outcomes:

Optimize service to the public as an accessible helpful resource.

Develop respectful and productive relationships with public bodies' delegated decision makers.

Encourage all parties to apply precedents to the matter at hand thereby expediting early resolution of Requests for Review to better serve the public and public bodies.

Issue informative and clear public and private Reports.

Promote proactive disclosure and routine access policies.

Measures:

Respond to 100% of all inquiries about access and Reviews at Intake within 2 business days.

Maintain the percentage of Review Requests resolved early in the process through informal resolution.

Maintain the percentage of Review Reports relied upon by the Review Office team in negotiating and achieving informal resolutions during intake and investigations.

What Do these Measures Tell Us?

These measures are intended to demonstrate the Review Office's commitment to sharing information with applicants, potential applicants, third parties and those working in access and privacy roles. When more information is available, making decisions is easier and the likeliness of an informal resolution is greater.

Where Are We Now?

The number of inquiries fielded increased from 1,852 calls in 2011 to 1,866 in 2012 with another increase to 2,059 in 2013. Our current inquiry tracking system does not allow us to record response times.

The number of Review files resolved through Informal Resolution increased to 64% in 2013 from 62% in 2012.

The number of Reviews Reports issued remained steady at 8 in 2013.

Continued efforts to make the public more aware of the Review Officer are reflected in other statistics.

Where Do We Want to Be?

Best practices in all Canadian Review Officer/Commissioners' Offices mean maintaining an independent oversight Review process that is timely, competent and respectful. The volume of work and the limited number of staff equate to Reviews not being processed in as timely a fashion as would be ideal. The Review Office is committed to improving timelines for processing investigations.

By empowering parties in a Review to actively participate in the Review, for example by developing new tools to assist them with making representations, we strive to close more Review files by informal resolution.

When other avenues of resolution have been exhausted, we strive to ensure Review Reports are issued in a timely fashion.

The Review Office strives to promote greater access to information by increasing public declarations of the importance of proactive disclosure and routine access policies and exploring educational learning opportunities for public bodies.

The Review Office will continue to promote legislative amendments to give the Review Officer discretion to refuse to conduct a Review. Such an amendment would assist the Review Office to manage the process in the most efficient and effective way possible.

The number of Time Extension Requests increased dramatically to 48 in 2012 from 22 in 2011 and increased again in 2013 to 56. Additionally, the number of Time Extension Complaints increased from two in 2011 to seven in 2012; however, only one was received in 2013. The number of "deemed refusals" increased from one in 2011 to eight in 2012 and to 11 in 2013. These statistics indicate a pattern of some concern to the Review Officer as to the ability of some public bodies in meeting statutory timelines to make a decision and to process an Application for Access to a Record. We hope to be able to develop tools to assist public bodies to comply with the timelines found in the *Acts*.

2. Requests for Review of Privacy Complaints

Outcomes:

Contribute to education of applicants, third parties, public bodies and custodians regarding the Privacy Review Officer as the statutory oversight body for privacy complaints under the *PRO Act* and *PHIA*.

Open and receptive to all privacy consultation requests from public bodies and custodians.

Privacy issues tracked through own-motion privacy investigations where circumstances deem it appropriate.

Measures:

Provide comprehensive information to all privacy inquiries and conduct thorough investigations into all Privacy Requests for Reviews opened.

Continue to improve and upgrade website in order to provide more information about access and privacy to the public.

Monitor media and public reports on privacy to evaluate whether a privacy breach has occurred or a privacy issue has the potential to affect the public's privacy rights under the governing statutes.

What Do these Measures Tell Us?

Continuing to receive Privacy Requests for Review and privacy related inquiries is a measure that confirms that the public continues to understand that the Privacy Review Officer is the statutory independent oversight body where they can find out information about their privacy rights and/or to seek an impartial review of decisions made by provincial public bodies against whom a privacy complaint has been lodged.

The number of requests for consultation will be an indication as to the extent to which public bodies understand the new statutory roles of the Privacy Review Officer.

Where Are We Now?

The Review Office answered 159 privacy inquiries in 2013. This is a slight decrease from 170 in 2012. The number of privacy complaints received was four in 2013 compared to ten in 2012.

PHIA inquiries decreased significantly to 77 in 2013, from 826 in 2012.

PHIA came in force as of June 1, 2013. Two *PHIA* Reviews were received in the six month time period. The Review Officer received ten notifications of breaches, under section 70 of *PHIA* during the same six months.

Improvements to the website were launched in 2013 and it is fully functioning. The content management of our website can now be done in-house in a more comprehensive and timely manner. New tools have been added and the ability to search for Review Reports is more user friendly.

In 2013, the Review Officer initiated two own-motion privacy investigations under the *PRO Act* and one under *PHIA*.

Where do We Want to be?

We will continue to be open to all opportunities to educate the public, public bodies and custodians on privacy to the extent possible within our limited resources.

3. Consultation, Education and Outreach

Outcomes:

The public is educated about the role of the Review Officer with respect to access and privacy.

Health custodians see the FOIPOP Review Officer as a valuable resource in ensuring *PHIA* compliance.

Measures:

Plan at least one event to mark Right to Know Week.

Host or support an event to mark Data Privacy Day.

Engage in one educational event at the local, national or international level.

Continue to offer to provide training about the Review process for local/municipal public bodies.

Initiate or respond to at least two meetings or consultations with health custodians, health officials or other stakeholders.

What Do these Measures Tell Us?

The Review Office is committed to continuous learning in the evolving field of access and privacy. The Review Office provides training externally, and as experts in access and privacy, Review Office staff engage in specialized training as it is made available.

Where Are We Now?

At the Halifax Keshen Goodman Library on April 10, 2013, the Review Office gave a general introduction to the access to information regime in Nova Scotia, how the Review Office works, as well as an overview of some current issues.

Staff attended the Federal Investigators' Workshop in Ottawa from May 28 – 30, 2013, a workshop providing specialized training to access and privacy oversight employees. The Review Office was also invited to sit on the Agenda Committee of this Workshop and provide a presentation, tools, resources and answered questions about Nova Scotia Review process.

The Review Office was invited to attend the Nova Scotia Information Access and Privacy ["IAP"] Office's training sessions on June 6, 2013 and September 26, 2012. A presentation on the Review process, tools, resources were provided followed by a question and answer period.

The Review Office presented to the Association of Nova Scotia Villages on access and privacy at the municipal level on September 13, 2013.

To mark Right to Know Week, the Review Office was invited by the Legal Information Society of Nova Scotia to participate in an information sharing session about our respective organizations and discuss ways to address any legal information gaps about access and privacy issues, on September 20, 2013. In the past the Review Office has hosted various events and contests to mark Right to Know Week, but active participation was not possible this year as no funds were available.

The Review Officer attended the Annual Federal/Provincial/Territorial Information and Privacy Commissioners' Summit in Vancouver from October 8-9, 2013. Key topics on the agenda included systemic reviews, compliance reviews, modernizing investigations & privacy impact assessments, media relations, confidential consultations. A joint resolution was issued by

Canada's access and privacy guardians on "modernizing access and privacy laws for the 21st century".

On October 9, 2013 the Review Office was invited to the Association of Municipal Administrators' Nova Scotia fall 2013 convention to present "What You Can Expect with a FOIPOP Review". Tools and resources were also provided followed by a question and answer period.

Staff attended the Forum of Canadian Ombudsman/Association of Canadian College and University Ombudspersons' 2013 Conference, which provided workshops and training on "learning and working together" in an Ombudsperson's Office from October 9 -12, 2013.

The Review Office was invited to attend the Municipal Access and Privacy Workshop held at Dalhousie University on November 1, 2013. Our presentation included an overview of the Review process, tools, resources and a question and answer period.

The Review Office presented to the Financial Management Institute of Canada, about the evolution of the access and privacy legislation in Nova Scotia, on January 15, 2014.

On February 19, 2014 staff attended the Annual Data Protection Day event organized by Dalhousie University and an information table was available for participants.

The Review Officer received two requests for consultation from public bodies in 2011, 12 in 2012, and 11 in 2013. *PHIA* also gives the Review Officer the power to do consultations and in 2013 the number custodians that requested consultations was four. Consultations can only be undertaken at the request of a public body or custodian.

Where do We Want to be?

Continuing opportunities for presentations and training on access and privacy for public bodies, municipalities, custodians and Review Office staff.

We strive to be able to respond affirmatively to all appropriate requests for public education opportunities and initiating training opportunities. This could include developing a creative approach to fulfilling the statutory mandate of public education on privacy matters.

We would like to be in a position to be able to develop a strategy to engage the appropriate authorities to urge them to provide training or provide up-to-date on-line materials with respect to access to information and privacy under the *MGA*.

Review Office resources are extremely limited, so we will target specific consultation opportunities with the Department of Health and Wellness and other personal health information custodians.

Supplemental Information and Appendices

Appendix A

Annual Report under Section 18 of the Public Interest Disclosure of Wrongdoing Act

Table A.1

The following is a summary of disclosures received by the Freedom of Information and Protection of Privacy Review Office

Information Required under Section 18 of the Act	Fiscal Year 2012 – 2013
The number of disclosures received	Nil
The number of findings of wrongdoing	N/A
Details of each wrongdoing	N/A
Recommendations and actions taken on each wrongdoing	N/A