



Nova Scotia

**FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY
REVIEW OFFICE**

ANNUAL ACCOUNTABILITY REPORT FOR THE FISCAL YEAR

2005-2006

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ACCOUNTABILITY STATEMENT

The Accountability Report of the Freedom of Information and Protection of Privacy Review Office for the year ending March 31, 2006 is prepared pursuant to the Provincial Finance Act and government policies and guidelines which require the reporting of outcomes against the Freedom of Information and Protection of Privacy Review Office Business Plan for the 2005-2006 fiscal year. The reporting of the Freedom of Information and Protection of Privacy Review Office outcomes necessarily includes estimates, judgments and opinions.

The Accountability Report is the responsibility of the Freedom of Information and Protection of Privacy 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 Freedom of Information and Protection of Privacy Review Office 2005-2006 Business Plan, and subsequent enhancements made to that plan throughout the 2005-2006 fiscal year.

Dwight Bishop
Acting Review Officer

MESSAGE FROM THE REVIEW OFFICER

The Review Office is pleased to have met most of its goals. Steps to ensure access and understanding of Freedom of Information and Protection of Privacy (FOIPOP) legislation have been well received. Likewise, the Review Office is encouraged by the positive reception extended by the FOIPOP Administrators and their commitment. To ensure ongoing openness and transparency of government and public bodies, further attention is required in the areas of public education and outreach, and the Review Office's accessibility to the public. The willingness of staff to assume additional duties outside their main responsibilities warrants mention.

Dwight Bishop
Acting Review Officer

INTRODUCTION

This report is based on the goals, priorities and performance measures set out in the Freedom of Information and Protection of Privacy Review Office (the Review Office) 2005-2006 Business Plan. This report is organized around the strategic goals of the Review Office and will outline the progress made towards achieving the stated goals and priorities. The final sections set out financial information and performance measures.

The Review Office, at the request of applicants, reviews decisions made by government and public bodies in response to applications for access to records and correction of personal information in the custody or under the control of those bodies. The Review Office mediates, or the Review Officer may issue a Review Report and make recommendations to confirm, adjust or change the decision of the government or public body. The Review Officer also provides advice and makes recommendations on privacy issues related to the Acts. An additional function of the Review Office is the proactive educational component.

On January 24, 2006 the Review Officer position became vacant, and an Acting Review Officer was appointed pending the selection and appointment of a Review Officer. In addition to the Review Officer position, the staff complement as of March 31, 2006 consisted of: a Case Review Analyst, who was working in a dual role since assuming the responsibilities of the Mediator/Investigator, a position which had been vacant since October 2005; and a casual Intake/Administrative Assistant. Some short term support was also provided by the Office of the Ombudsman. The hiring of a Mediator/Investigator has resulted in both positions being filled (Mediator/Investigator and the Case Review Analyst), and a casual Intake/Administrative Assistant. Reclassification and organizational needs are pending.

The Review Office began revisions to its existing website in order to meet the objectives of increasing public and government awareness, education and understanding of the Freedom of Information and Protection of Privacy Act and Part XX of the Municipal Government Act (MGA). As a result, the Review Office website is undergoing major content revision and architectural modification. During 2005-2006 the Review Office has seen an increase in the level of understanding by those charged with implementing Freedom of Information and Protection of Privacy legislation on behalf of government and public bodies. As a result of this trend, the Review Office has identified a need to continue to increase its work with government and public bodies towards promoting a culture of openness and transparency in keeping with the Freedom of Information and Protection of Privacy Act and Part XX of the MGA; as well as the need for increased public awareness, access and understanding of legislated rights and obligations under the Acts; and the role of the Review Office.

The number of reviews opened between January 1, 2005 and December 31, 2005 was 85.¹ The number of files closed in 2005 (not necessarily opened in 2005) was 77. Of those files closed, 34 were resolved by Review Report. Of those files resolved through Review Report, 30 Public Bodies accepted the Review Officer's recommendations, two partially accepted the Review Officer's recommendations and two rejected the Review Officer's recommendations. The Review Office experienced considerable success through the use of effective mediation. Mediation resulted in 31 files being fully resolved, while 6 files were resolved through partial mediation and a Review Report. Three files were withdrawn or abandoned and three were screened out. A total of 15 files opened in 2005 were carried over into 2006. The use of mediation and informal resolution will continue to increase.

While the Review Office does not have the legislated mandate to investigate and report on privacy complaints, the Review Office is pleased to report that most government departments and public bodies have cooperated in privacy complaint investigations. In 2005-2006 the Review Office received 52 privacy related inquiries and complaints. Of the total received, 36 were general inquiries and 16 resulted in investigations. The Review Office recognizes the need to increase focus on privacy issues, as such the Freedom of Information and Protection of Privacy Act and Part XX of the MGA warrant consideration during any future legislative changes. The Review Office has identified as a priority for 2006-2007 the need to continue recommending to government areas to improve both Acts.

¹The statutory reporting under the Act is on a calendar year basis. The Accountability Report needs to be read as such.

PROGRESS AND ACCOMPLISHMENTS

Strategic Goals, Priorities and Accomplishments

The following report pertains to the initiatives undertaken to achieve the priorities established in the 2005-2006 Business Plan:

1. Intake, Investigation, Mediation and Review Processing

To encourage the legislature to evaluate the needs of the Review Office and consider amending the Acts to promote increased openness and accountability in all public bodies; and to provide citizens with adequate privacy protection for the security of their personal information:

- provide recommendations to the legislature to improve access to information and administrative fairness
- assess the referrals, mediation, investigations and reviews processes to streamline the overall review process for efficiency
- ensure citizens' requests for review and privacy complaints are addressed in an open, objective, independent and timely manner
- provide feedback and participate in consultation on privacy protection issues

Accomplishments:

The intake, investigation, mediation and review process is monitored via an updated status document, the ability to generate statistics/reports regarding requests for reviews and privacy inquiries/complaints drawn from the internal database and regularly scheduled meetings of all Review Office staff. These measures allow the Review Office to monitor time frames, identify possible systemic issues regarding requests for review/privacy complaints and gauge the efficiency of the mediation/investigation process as well as Review Reports to ensure all requests for review and privacy complaints are processed as efficiently as possible with existing resources; the number of requests for review increased to 85 from 76 in 2004. Privacy related investigations increased to 16, from 11 in 2004.

Records management and the database were revised for the efficient monitoring of response times by public bodies, to track public bodies decisions on applications for access and to measure the efficiency of the Review Office. To assist with the overall function and administration of the Office, a casual Intake/Administrative Assistant was hired. Reclassification and organization needs are pending.

2. *Awareness and Education*

To increase the awareness of citizens and training of public servants with respect to their rights and obligations under the Freedom of Information and Protection of Privacy Act and Part XX of the MGA. Enhance the profile of the role and function of the Review Office.

- increase presentations/training which advocate for the Acts
- continue efforts to provide services in English and French
- review content/format of pamphlets/brochures
- assess the need to develop a communication plan

Accomplishments:

Increased presentations and training to FOIPOP Administrators to 13 from 11 in 2004. Conducted public awareness and information sessions to promote and advocate for the Acts. The Review Officer and Staff maintained participation as panel/committee members which focused on access and privacy issues provincially, nationally and internationally. Communication materials such as the Annual Report, pamphlets/brochures and Frequently Asked Questions continued to be provided in both English and French. Office staff also commenced the process of assessing individual and Office training needs and participated in various training opportunities.

A review and assessment of the Review Office's website, training plans, communication materials and committee/panel participation has been identified as a priority for review and further development for 2006-2007.

3. *Public Administration*

Advocate for the administration of an open, transparent and accountable public sector. To encourage and participate in legislative and policy development review committees/processes. To enhance and maintain an effective and well resourced review process:

- work with government and public bodies towards a culture of compliance with the Acts
- increase the use of mediation to resolve requests for review
- reassess the Acts and provide to government recommendations for improvement
- identify areas of education and training of stakeholders

Accomplishments:

Building and maintaining relationships with the public, government and public bodies to enhance the request for access and review processes. The Office database was utilized to assess/determine

trends or systemic issues. The Review Office's policy and procedures manual was further refined and developed.

The use of mediation and areas of training for stakeholders, including government and public bodies has been identified as a priority for review and further development in 2006-2007.

FINANCIAL RESULTS

Freedom of Information and Protection of Privacy Review Office Expenses 2005-2006		
	Budget	Actual
	(\$ thousands)	(\$ thousands)
Net Program Expenses	254	216
Salaries and Employee Benefits	128	105
Funded Staff (FTE's)	2.0	1.9

PERFORMANCE MEASURES

This fiscal year was met with staff transition. For an Office with a staff compliment of three, including the Review Officer, some challenges were faced. Despite such challenges, the Freedom of Information and Protection of Privacy Review Office attained or exceeded the majority of its performance targets.

A Core Business area identified in the 2005-2006 Business Plan was:

1. Intake, Investigation, Mediation and Review Processing

The first outcome is an efficient and effective intake, mediation and review report process.

The measures are the timely completion of intake, investigations, mediation and review reports/recommendations with respect to requests for review and assistance provided in resolving privacy inquiries and complaints.

The average time frame for intake was 32 days; mediation 47 days and review report 18 days; the average length of time a file was open in the system was reduced to 68 days, from 75 days in 2004. In 2004 the time frames for intake, mediation and review report were not tracked. Assistance was provided on 52 privacy related inquiries and complaints (a statistic which had not been previously tracked). The number of privacy related investigations increased to 16 from 11 in 2004. Improvements were made to the database to track time frames and decisions on applications for access to information and review requests. A casual Intake/Administrative Assistant was hired to assist with the effective administration of the Office; an Acting Review Officer was appointed pending the recruitment and appointment of a Review Officer.

A second outcome is increased awareness of the role and mandate of the Review Office and the public's awareness of their rights under both Acts.

The measures are increased use of mediation reducing the need for review reports, and encouraging government and public bodies to further familiarize themselves with their obligations under the Acts to reduce the number of requests for review.

The percentage use of mediation increased to 48%, compared to 43% in 2004. In addition, the number of requests for review increased to 85, from 76 in 2004. Privacy related investigations increased to 16, from 11 in 2004.

2. Awareness and Education

Increase public awareness, understanding, training and education of the Freedom of Information and Protection of Privacy Act and Part XX of the Municipal Government Act. Increase citizens' accessibility to information and privacy.

The first measure is to increase the number of individuals receiving information and training on the role of the Office and relevant legislation. In 2005 the number of training and information sessions increased to 13, from 8 in 2004. A target for 2006 has been set to increase this number by 10%, and the target for 2007 is to increase the target set for 2006 by 10%.

The second measure is to decrease the percentage of applications to public bodies for access to information that become requests for review to the Review Office. The percentage increased to 8.2% from 7.2% in 2004; however in 2005, 13 public bodies did not submit yearly statistics which impacts the overall percentage rates. The target set for 2006 is to maintain the 2005 data, and the target set for 2007 is to decrease the target set for 2006 by 1%.

3. Public Administration

Promote openness, transparency and accountability in public sector administration; advocate for the Acts and advance protection of privacy issues.

This is measured via the percentage of review report recommendations accepted in full or in part. A significant increase in the percentage of recommendations accepted in full was observed at 88%, from 56% in 2004. Recommendations accepted in part also increased to 18%, from 13% in 2004. Public Body responses to Review Report recommendations are publicly available via the Review Office's website.