



2023 - 2024 Annual Report

*Office of the Information and
Privacy Commissioner for Nova Scotia*



Vision

Nova Scotia's public sector is open and accountable. Privacy rights of citizens are respected and protected.





Office of the Information & Privacy Commissioner

Nova Scotia

June 19, 2024

Speaker of the House of Assembly
1st Floor, Province House
PO Box 1617
Halifax, Nova Scotia B3J 2Y3

Dear Speaker of the House,

Pursuant to s. 33(7) of the *Freedom of Information and Protection of Privacy Act*, s. 4(3) of the *Privacy Review Officer Act* and s. 93(b) of the *Personal Health Information Act*, I submit this annual report for the 12 month period of April 1, 2023 through to March 31, 2024.

Respectfully submitted,

Tricia Ralph
Information and Privacy Commissioner for Nova Scotia

PO Box 181
Halifax NS, B3J 2M4



Toll Free
1-866-243-1564

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Glossary:

OIPC	Office of the Information and Privacy Commissioner for Nova Scotia
IPC	Information and Privacy Commissioner
IAP Services	Information Access and Privacy Services for the Nova Scotia Government
<i>FOIPOP</i>	<i>Freedom of Information and Protection of Privacy Act</i>
<i>MGA</i>	<i>Municipal Government Act</i>
<i>PHIA</i>	<i>Personal Health Information Act</i>
<i>PRO</i>	<i>Privacy Review Officer Act</i>
s.	Section
Public body	Provincial public body, municipality or health custodian that is subject to any Nova Scotia access to information or privacy law

If you are reading a paper copy of this report you will need to visit the electronic version of this report on our website to benefit from the hyperlinks throughout: <https://oipc.novascotia.ca>.



Commissioner's Message

I am pleased to submit this 2023-2024 Annual Report, which highlights the work of the Office of the Information and Privacy Commissioner for Nova Scotia (OIPC) this past year.

Legislative review

Outdated legislation is one of the main issues impacting our work. For many years the OIPC has been recommending that the Nova Scotia Government update its access and privacy laws. The *Freedom of Information and Protection of Privacy Act (FOIPOP)* is 30 years old, and has not been substantively updated during that time, despite great advances in technology since 1994.

We need legislative change because our laws are not modern enough to adequately protect the access and privacy rights of Nova Scotians. We are living in a time of quickly advancing technological change. We are seeing fast progress in the functionality and use of tools such as generative artificial intelligence. Data-driven technologies have great potential to benefit us all. But they also come with great risk if they are not used for good, in a privacy-protective and ethical way.

We are also seeing an increased use of the spread of disinformation and misinformation through digital means. This can put our democracy at risk. In this context, transparency and protection of personal privacy are more critically important than ever. Now is the time to amend these laws.

This year, we were pleased to learn that the Nova Scotia Government began a review of *FOIPOP*. Public institutions should expect, welcome and learn from public critique of their actions, as doing so allows them to improve services and make changes to ideas and projects that do not achieve their intended goals. It takes courage and nerve for any government to make laws that make it subject to greater scrutiny. I commend the Nova Scotia Government for taking on this task.

In January 2024, the OIPC gave its recommendations to the Nova Scotia Government¹ and will continue to engage with it as the review progresses. In our submission, we provided what we hope will be helpful and valuable advice to the Nova Scotia Government as it decides how to amend the laws.

¹The OIPC's submission is available on our website, Office of the Information and Privacy Commissioner, *Submission by the Office of the Information and Privacy Commissioner for Nova Scotia to the Nova Scotia Government Working Group on the review of the Freedom of Information and Protection of Privacy Act, related legislation, and regulations* (January 31, 2024), online: <<https://oipc.novascotia.ca/sites/default/files/publications/2024%2001%2031%20OIPC%20Legislative%20Review%20Submission.pdf>>

Commissioner's Message

We were happy to learn that the legislative review would not solely look at the issue of order-making power under *FOIPOP* (as set out in the mandate letter)² but would also address the entire legislative scheme. We provided a variety of recommendations, but noted that to be effective, any change to the laws will need to be accompanied by a cultural shift that embraces the public's presumptive right to know most information held by public bodies. I look forward to seeing the outcome of the legislative review and sincerely encourage the Nova Scotia Government to make amendments that better protect the access and privacy rights of Nova Scotians.

Insufficient staffing and backlog

We did not see improvement with the other main issue that continues to negatively impact the effective functioning of the OIPC - lack of adequate resourcing.

An unsurprisingly major disappointment this year was that we did not receive the additional permanent staff we asked for and very much need. To be blunt, I am being conservative when I say that our ability to provide our mandated services is significantly hampered by our insufficient resourcing. Our backlog has not reduced and hovers around four years. To be frank, this backlog is unacceptable.

The OIPC needs more resources. Without them, our backlog has and will continue to grow. Despite reducing much of the work that is outside of our core mandate of reviewing public bodies' access and privacy decisions, this has not been enough to reduce the backlog. The longer this lack of resourcing persists, the more we must resort to being reactive as opposed to proactive. At pages 15-18 of this report, we provide a more detailed summary of what makes us reactive and what prevents us from reducing the backlog.

Around half of our access to information reviews arose from decisions made by Nova Scotia Government departments. This year, I am calling on them to work with us to come up with innovative ways to reduce the backlog in the context of the OIPC being denied additional permanent staff.

An unsurprisingly major disappointment this year was that we did not receive the additional permanent staff we asked for and very much need.

Conclusion

I want to conclude with a message about my staff. It is a privilege and an honour to watch them adapt and work with such integrity, particularly considering the seriousness of the situation we are in. They have done tasks they are not trained or paid sufficiently to do, without complaint. They have kept morale high at a time where our office is experiencing unprecedented pressure. They passionately believe in the importance of our work to maintain the democratic foundation of our province and our country, and it shows. I have learned so much from them and I sincerely thank them for continuing to stand up for the access and privacy rights of Nova Scotians.

Yours sincerely,



Tricia Ralph
Information and Privacy Commissioner for Nova Scotia

² Government of Nova Scotia, *Mandate letter to the Attorney General; Minister of Justice* (September 14, 2021), online: <https://novascotia.ca/exec_council/letters-2021/ministerial-mandate-letter-2021-AG-DOJ.pdf>.

THE YEAR IN NUMBERS

Total Number of
New Files

634

We received **391** reviews and complaints and **243** files initiated by public bodies.

Education &
Outreach



- 1445** Inquiries
- 35** Media Requests
- 37** Speaking Engagements
- 6** New Tools



842

Breaches Reported -
Personal Health
Information Act

Under section 70 of the Personal Health Information Act, health custodians are required to notify the Information and Privacy Commissioner of breaches of personal health information where the custodian has determined there is no potential for harm or embarrassment to the individual and has not notified the affected individual.

79

Access and/or privacy
consultations with public
bodies

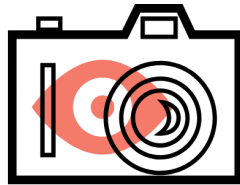


80%

of review files resolved informally

What the Public Wants to Know

My landlord took pictures of my apartment. Is that allowed?



Landlords are required to comply with Canada's federal privacy law, the Personal Information Protection and Electronic Documents Act (PIPEDA). The landlord must identify the purpose prior to or at the time of collection (taking photos) and obtain your consent. The landlord must also make a reasonable effort to ensure that you understand how the information will be used or disclosed.

Contact the [Office of the Privacy Commissioner of Canada](#) for more information.

How to I get access to my CPS (Child Protection Services) file?



Access to information requests for records that are in the custody or control of a Nova Scotia provincial government department (i.e. Department of Community Services which includes CPS) are processed by Information Access & Privacy Services (IAP Services).

Contact [IAP Services](#) to begin the process.

Check out our guidance document: [How to Make an Access to Information Request](#)

My doctor sent my medical file to a storage company and they said I have to pay a fee to get my records. Are they allowed to do that?



Under the Personal Health Information Act (PHIA), fees can be charged to access your records in some cases. But, there are limitations.

Review our [PHIA Fee Fact Sheet](#) for more information about fees that can be charged under PHIA.

You have the right to request a review of fees being charged for your records. For more information, see our [How to Appeal a Decision](#) guidance document.

The provincial government shared my information without my consent. I want to file a complaint. How do I do that?



To file your complaint, submit it in writing directly to the government's [Information Access & Privacy Services](#) office.

If your privacy complaint is about a different public body, submit your complaint in writing to that public body's designated [Privacy Officer or FOIPOP Administrator](#).

When you receive the response to your complaint, if you are not satisfied, you can then file your complaint with the OIPC.* See our [How to Appeal a Decision](#) tool for guidance.

*The OIPC cannot investigate privacy complaints made against municipalities or municipal bodies covered by the Municipal Government Act, Part XX.

What the Public Wants to Know

How do I get a copy of a police report?

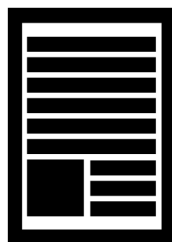


If you are seeking a copy of a police report from the Royal Canadian Mounted Police (RCMP), please contact the RCMP's Access to Information and Privacy Branch.
Phone: 1-855-629-5877
Web: www.rcmp-grc.gc.ca/en/access-information-and-privacy

If you are seeking a copy of a police report from a municipal police service in Nova Scotia, you can make your request by submitting a Form 1 directly to that police service.

For full instructions see our guidance document: [How to Make an Access to Information Request Form 1 - Application for Access to a Record](#)

I made an access to information request and they blanked out some parts of the information. I think I have a right to that information. How do I get it?

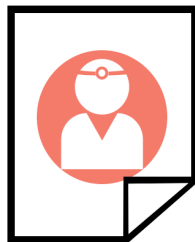


You have the right to request a review of a decision made by a public body, municipality or health custodian in response to your access to information request.

A request for review means that you are requesting the OIPC investigate the decision made by the public body, municipality or health custodian. Once investigated, the OIPC will make findings and recommendations back to the public body, municipality or health custodian as to whether or not it correctly applied the law when it withheld information from you.

For more information, see our [How to Appeal a Decision](#) guidance document.

I need a copy of my medical records. Can you send them to me please?



To request access to your personal health information records under the Personal Health Information Act (PHIA), please contact the health custodian directly.

A health custodian is the regulated health professional that has your personal health information records. For example: your family doctor, your dentist, the Nova Scotia Health Authority, your nurse-practitioner, etc.

Make your request in writing. Fees may be charged.

Review our [PHIA Fee Fact Sheet](#) for more information about fees that can be charged under PHIA.

The health custodian will have 30 days to respond to your request for your personal health information records.

What Public Bodies Want to Know

When and how do I give notice to a third party?



When a public body receives a request for records it believes might affect the interests of a third party, there is a nine-step notice process involved.

Check out our guidelines document for help with these nine steps:

[Third Party Notice: Guidelines for Public Bodies and Municipalities](#)

When and how can I extend the time to respond to an access to information request?

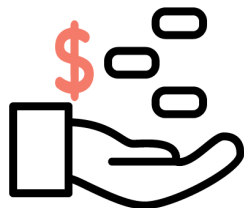


Decisions must be issued within 30 days. There are three circumstances when this timeline can be extended. If more than 60 days is needed, the permission of the Commissioner is required.

Review our guideline documents for detailed information on taking a time extension and our forms to request an extension.

- [FOIPOP Guidelines](#)
- [MGA Guidelines](#)
- [FOIPOP Form](#)
- [MGA Form](#)

What fees can I charge for an access to information request?



Under FOIPOP and the MGA, there is a mandatory \$5.00 application fee, unless the request is for the applicant's own personal information - then there is no fee. Additional fees can be charged for processing the request, as set out in the Regulations.

Our office has created two documents providing more information about the fees public bodies and health custodians can charge for access to information:

[How to Calculate Fees - Guidelines for Public Bodies and Municipalities](#)

[PHIA Fee Fact Sheet - Guidelines for Health Custodians](#)

What Public Bodies Want to Know

What personal information can I share with municipal councillors about a bylaw violation?

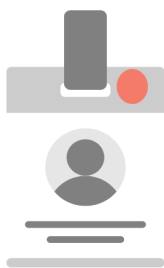


You may only disclose personal information if the law specifically permits the disclosure. There are two possible authorities, but both require that the personal information be necessary for the job at hand. Unless the councillor requesting the information has a direct role in decision-making about enforcement of laws, no personal information should be shared with councillors.

We have developed a couple of access and privacy tools specifically for councillors:

- [Access & Privacy Rules - A Councillor's Guide](#)
- [Access & Privacy - Councillor's Q&A's](#)

Can I disclose the name of the access to information applicant?



The short answer is: not without consent. The name of an applicant is the applicant's personal information. You may only disclose personal information if the law specifically permits the disclosure. In the circumstances we have seen, the only authority that appears to apply to disclosure of an applicant's name is consent. Two common examples are requests from third parties or from town councillors who wish to know the identity of an applicant. In both cases you would need the consent of the applicant to disclose his or her identity.

If you disclose the name, best practice is to document your authority.

We are a non-profit organization. What are our privacy obligations?



Non-profit organizations are not covered by provincial or municipal privacy laws. Some may be subject to Canada's federal privacy law, the Personal Information Protection and Electronic Documents Act (PIPEDA).

[Contact the Office of the Privacy Commissioner of Canada to find out.](#)

Even if you are not covered by privacy legislation, it is best practice to function as though you are.

Check out our [Privacy Toolkit for Non-Profits in Nova Scotia](#)

The OIPC's Role³

The OIPC is the independent oversight body for Nova Scotia's access to information and privacy laws: *FOIPOP*, *PRO*, *Part XX* of the *MGA* and *PHIA*. Provincial public bodies, municipal bodies and health custodians are all subject to oversight by the OIPC. The table below uses the term "public body" to refer to these provincial public bodies, municipal bodies and health custodians that are subject to Nova Scotia's access to information and privacy laws.

Many people call or complain to the OIPC about matters that we cannot help with. To determine if the OIPC can review the matter, refer to the chart below describing what we can do and what we cannot do.

What the OIPC Cannot Do	What the OIPC Can Do
<ul style="list-style-type: none"> • Does not process access requests, correction of personal information requests or privacy complaints on behalf of public bodies. Individuals must make their request or complaint directly to the relevant public body. • Cannot release records submitted by public bodies to the OIPC for review. The Commissioner cannot order a public body to disclose records, she can only make recommendations. If records are released, they never come from the OIPC. • Does not store records on behalf of any public body. • Cannot conduct a search for records on behalf of a public body. • Cannot review how public bodies respond to privacy complaints under the <i>MGA</i>. • Cannot issue monetary awards, fines or penalties. • Cannot enforce the offence and penalty provisions of <i>FOIPOP</i>, <i>MGA</i> or <i>PHIA</i>. • Cannot force anyone to be disciplined, suspended or fired from their job. Decisions related to job discipline are made by the employer and the OIPC cannot change those decisions. • Cannot review how a public body's services are provided, or how it treats its clients. • Cannot change, further investigate, or reinvestigate a decision made by another public body or administrative tribunal about providing a benefit or issuing a penalty, such as decisions made by the Workers' Compensation Board, the Department of Community Services, police, enforcement officers, etc. 	<ul style="list-style-type: none"> • Can review how public bodies respond to access to information (or freedom of information) requests (access requests) under <i>FOIPOP</i>, <i>MGA</i> and <i>PHIA</i>. The OIPC only conducts a review if someone is dissatisfied with the public body's response and requests a review. Issues such as search, severing and fees can be investigated. • Can review how public bodies respond to correction of personal information requests under <i>FOIPOP</i>, <i>MGA</i> and <i>PHIA</i>. • Can review how public bodies respond to privacy complaints under <i>PRO</i>, <i>FOIPOP</i> and <i>PHIA</i>. • May require a public body to produce any record in its custody or control to the OIPC for the purpose of conducting a review. • May enter and inspect any premises occupied by a public body. • May informally resolve or mediate reviews, or issue review reports with findings and recommendations. <div data-bbox="852 1354 1502 1764" style="background-color: #0056b3; color: white; padding: 15px; border-radius: 15px; margin-top: 20px;"> <p style="text-align: center;">Need help with the terms in this table? Check out our glossaries:</p> <ul style="list-style-type: none"> • Review Request Terms • Access to Personal Health Information Terms • Privacy Terms (Personal Health Information Act) </div>
<p><i>This table continues on the next page.</i></p>	

³ This article was adapted from content available on the website of the Office of the Information and Privacy Commissioner of Alberta.

The OIPC's Role

What the OIPC Cannot Do	What the OIPC Can Do
<ul style="list-style-type: none"> • Cannot act on behalf of or represent any individual or public body. The OIPC is neutral. The OIPC is not an advocate for the applicant or the public body. The OIPC is an advocate for compliance with the access and privacy laws. • Cannot review or investigate the actions of individuals as private citizens. • Cannot be a party to any appeal to the Nova Scotia Supreme Court under <i>FOIPOP</i>, <i>MGA</i> or <i>PHIA</i>, and cannot offer advice or guidance on court processes. • Does not have authority to draft or change laws. • Cannot make public bodies document their decisions or create records. • Cannot approve how long records must be kept by a public body. • Cannot require a public body to proactively make records available to the public. • Cannot accept a review or complaint about a federal government organization or a private business. This includes privacy concerns stemming from a private company or landlord/tenant relationship. • Cannot determine where records are stored, including verifying which public body has the records applicants are seeking. • Cannot act as an intermediary between applicants and public bodies while a public body is processing an access request, correction or privacy complaint. 	<ul style="list-style-type: none"> • Can initiate an investigation of a public body's compliance with privacy provisions in <i>FOIPOP</i> or <i>PHIA</i>, even without a request for review. These reviews may result in public investigation reports. • Does process requests from public bodies for time extensions to respond to access requests under <i>FOIPOP</i>, <i>MGA</i> and <i>PHIA</i>, and time extension requests to respond to privacy complaints under <i>PHIA</i>. • On request of public bodies, may consult on various access and privacy matters, including legislation, programs, policies, initiatives, issues and other matters under <i>FOIPOP</i>, <i>PRO</i>, <i>MGA</i> and <i>PHIA</i>. • Does review privacy breach reports submitted by public bodies under s. 70 of <i>PHIA</i>. • Does receive notifications under s. 57(d) of <i>PHIA</i> of personal health information disclosures to researchers. • May develop education resources and provide access and privacy training to public bodies. • May make presentations to various groups about access and privacy laws and the OIPC's work.

See our website for tools with information about:

- [How to make an effective access to information request](#)
- [How to make a privacy complaint](#)
- [Understanding your rights when public bodies withhold or sever information](#)
- [Understanding your rights when there are records missing from your access request](#)

Annual Backlog Update

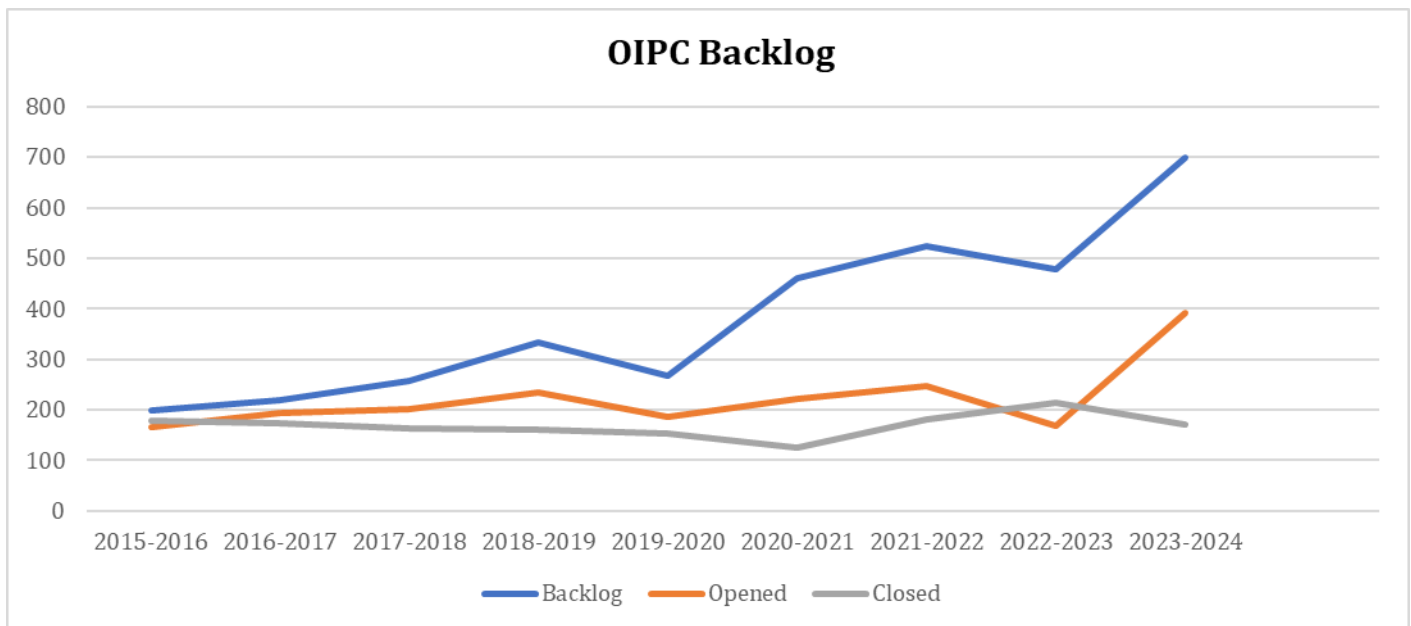
Each year we report on the backlog. Last year, it looked like it may be leveling off. It did not; instead, it grew. On April 1, 2023, we had 479 files and on March 31, 2024, we had 700 files.

The graph below shows how many files we received (orange line) compared to how many we closed (gray line), for the past nine years. The two are not equal and the difference becomes the backlog (blue line).

Most of these are cases where a public body⁴ has withheld information, and the applicant believes they are entitled to it. The applicants have asked that our office review the severing to ensure it is compliant with the law. The other type of case is privacy complaints. When an applicant files a privacy complaint with a public body and they are not satisfied with the response they receive, they have asked our office to have a closer look. We have cases waiting to be assigned that were received as far back as 2019. In other words, it can take a very long time for applicants to have their requests for review and privacy complaints heard by our office.

Our capacity reached a critical point many years ago. We have exceeded the limit of our ability to keep pace with utilization of our office. We have asked for more staff every year and have been denied each time. While we were loaned three staff for two years, it has not helped to reduce the backlog. With the hiring and training processes and turnover, term employment has actually hindered the reduction of the backlog.

This year, the biggest impact was the MOVEit cyber security breach. We received 110 privacy complaints that we would not have received otherwise. In the words of the Cyber Security and Digital Solutions Minister, breaches of this magnitude are a “reality in the digital age...”⁵ In our role as the office responsible for ensuring that the Nova Scotia Government is protecting the privacy of its citizens, it is very likely that we will continue to be called upon to investigate more and more privacy matters. The Nova Scotia Government has not been persuaded by our pleas for additional resources, even those dedicated to privacy. The reality is our backlog will continue to grow and everyone will have to wait even longer.



⁴ Public bodies include government departments, universities, regional centres for education, municipalities and municipal bodies, municipal police, transit authorities, health authorities, health custodians, agencies, boards and commissions.

⁵ [News Release July 11, 2023](#).

Who's Got Time for That?

For this Annual Report, we initially intended to include many more pages describing all the things we spent time on this past year that kept us from working on our core mandate of responding to requests for review and complaint files. The OIPC has a significant backlog of cases. These pages were meant to give context to what contributes to our backlog in addition to receiving more and more new access reviews and privacy complaints each year.

It quickly became clear that it would be counterintuitive to spend even more time away from file work to express how much time is taken away from working on files. Who's got time for that?

Instead, we decided to write a more basic Annual Report so we could spend more time working on our backlog. We would have preferred to write a more detailed report because it is one of the few chances we have to give insight into the operations of the OIPC outside of issuing review reports about public bodies' decisions in response to access requests and privacy complaints. These pages provide a rundown of the time-consuming activities the OIPC engaged in last year. For many of these, we were left wondering, "Who's got time for that?"

Legislative review submission

In the fall of 2023, the Nova Scotia Government launched a review of the access and privacy legislative framework in Nova Scotia. This review was welcome news, as the legislation in Nova Scotia is very dated and in need of modernization. The review and any subsequent legislative change are a huge undertaking not only for the Nova Scotia Government but also for the OIPC and any stakeholder taking part in it.

Along with anyone else who wanted to, we filed a submission.⁶ This was a major endeavour for our office. It took us months to research, draft, edit and file the submission. Multiple people from our small office were involved.⁷ While we welcomed the opportunity to provide our input, it did markedly hinder our ability to work on the backlog. Who's got time for that?

We hope that our contribution plays a significant role in influencing the Nova Scotia Government to make the necessary changes for the access and privacy laws in Nova Scotia to be stronger and more user friendly.

MOVEit cyber security breach

At the end of May 2023, Nova Scotia experienced its largest privacy breach in its history. Personal information was breached as part of a global security issue with a file transfer service called MOVEit.

The Nova Scotia Government sent notification letters to people affected by the breach over the span of several months. These letters contained notice at the end of each letter that the addressee could complain to the OIPC to request that we conduct a review of the breach. Unfortunately, the contact information provided for the OIPC was the only local phone number in the letter. As a result, many recipients contacted the OIPC not to request a review, but instead to voice their concerns and ask questions that were meant for the Nova Scotia Government.



⁶ The OIPC's submission is available on our website, Office of the Information and Privacy Commissioner, *Submission by the Office of the Information and Privacy Commissioner for Nova Scotia to the Nova Scotia Government Working Group on the review of the Freedom of Information and Protection of Privacy Act, related legislation, and regulations* (January 31, 2024), online: <<https://oipc.novascotia.ca/sites/default/files/publications/2024%2001%2031%20OIPC%20Legislative%20Review%20Submission.pdf>>

⁷ For 2023-2024, the OIPC had the equivalent of nine staff. This included the Commissioner, permanent staff and term staff.

Who's Got Time for That?

MOVEit cyber security breach (cont'd)

Many recipients of the breach notification letters called the OIPC about things that should have instead been directed to the Nova Scotia Government: for an explanation of the purpose of the letter and what it meant, difficulties with setting up the credit monitoring protection service offered by the government, and to request copies of the records that were breached. Very few callers were actually looking to speak with us about filing a complaint. Instead, we effectively became a second call centre for the Nova Scotia Government. We had to respond to and log each call and provide feedback to the Nova Scotia Government about these calls.

The OIPC received about 700 calls from people looking to speak to the Nova Scotia Government about the breach. To put this in context, the year before we received only 820 calls in total from the public on all matters related to our office.

To say that this took time away from our work on the backlog is an understatement. Much of our backlog work effectively stopped during this time. The MOVEit cyber security breach resulted in 110 new privacy complaints in four months, compared to an average of 10 per year in past years. No additional resources were provided to our office to address the biggest privacy breach in the history of our province.

The OIPC received about 700 calls from people looking to speak to the Nova Scotia Government about the breach.

To say that this took time away from our work on the backlog is an understatement.



In July 2023, we hired three term investigators to work on tackling our four-year backlog. Instead of working on the backlog, to keep the office afloat, the first few months of their training focused on the effects of the MOVEit cyber security breach. All hands were on deck to handle the increase in calls, emails, mail and file openings. The summer months were dedicated to the impact of the breach, with all positions in the office, even at the highest level, assisting. Months that could have been dedicated to the backlog were instead spent on matters related to the MOVEit cyber security breach. Who's got time for that?

The MOVEit cyber security breach resulted in 110 new privacy complaints in four months, compared to an average of 10 per year in past years.

The MOVEit cyber security breach further highlighted the necessity for proper resources and funding to be provided to our office. This is especially true given the Minister of Cyber Security and Digital Solutions' statements in the media about these types of breaches "becoming a reality in the digital age..."⁸ Our office agrees with this assertion. Despite that, our requests for additional funding were denied again.

⁸ Department of Cyber Security and Digital Solutions [News Release](#), July 11, 2023.

Who's Got Time for That?

Budget (resourcing) submissions

Each year, we spend weeks preparing a submission requesting more staff and more money to keep up with the increased demand for our services. We create a strong business case supported with statistics showing that the number of incoming files and the number of files that we can process don't line up. We have years of historical data that we provide along with predictions for future demand. Our predictions have proven to be accurate, if not conservative. Unfortunately, for the 2023-2024 budget, the Nova Scotia Government said no again.⁹

In 2023, for the first time, we were invited to make a new, separate submission - a second chance. For this project, two of our staff spent months preparing the submission, as we were required to conduct research and create large sums of statistical data to respond to the specific questions asked of us.



While we waited to hear if our request would result in more staff, the process started for the 2024-2025 budget submission, so the separate submission process ended, and the new budget submission process began. That is three budget requests in about 12 months. None were successful. We spent a lot of time presenting our case and we do not know why it failed. Who's got time for that?

It is difficult to understand how anyone who has read our business cases and submissions would not agree that we need more resources. We understand that there are serious and critical challenges facing the province, and in that context, it's easy to question why the access to information regime should be given more resources.

In our view, the reason is because the purpose of these laws is for public bodies to give almost all information to the public so that they can participate in the democratic process and hold public bodies to account for their actions and for how they spend taxpayer dollars. The public needs information to understand, appreciate, criticize or challenge decisions public bodies make to address the many issues our province is facing. How can the public do that if public bodies deny them access to that information and it takes around four years for the OIPC to review that denial? By the time four years have passed, it is usually too late to use any of that information to ensure fairness in public body decision-making. Who's got time for that?

Court appeals

Court rules require applicants who appeal access to information matters to court to give our office notice that the appeal has been made. We are not a party to the appeal, meaning we don't participate, but we do keep a "watch" on it, as the outcome is likely to directly affect our work. While we do the minimum we can on monitoring these cases so we can stay focused on working on our backlog, we keep an eye on the dates and look for the decisions to be issued so we can review them and apply them to our work. In the first three months of 2024, one individual filed eight court appeals. We would normally track about three each year. Who's got time for that?



⁹ For details about our budget request submissions, see page 26 of this Annual Report.

Who's Got Time for That?

Frequent and repetitive applicants

People have the right to file review requests but there are times when applicants' exercise of that right borders on abuse of process. At times, this becomes a burden on a small office like ours and can greatly impact our ability to process their reviews and all other applicants' reviews. For example, this year one individual filed 31 requests for review in 12 months. We normally get an average of 161 review requests total in a full year.

We asked for two remedies to this situation in our legislative review submission. First, limiting reviews to five per individual at one time. Second, the power to deem these actions by such applicants as frivolous or vexatious. At this time, we must accept and process all requests regardless of the intentions of the applicant, with no options to request for a reprieve. Who's got time for that?



We have been asking for more staff for years and we have been repeatedly denied.

Recent job vacancies

We have been asking for more staff for years and we have been repeatedly denied. We were loaned three term staff for two years. While this is much appreciated, the hiring and training processes are time consuming. Since January 2022, we held two job competitions, each taking about five months, and we've hired and trained seven term staff with a training period of about six months. Only two of the term staff are left. All that time and effort to hire and train was for not. The backlog grew.

Going into 2024-2025, we are having another job competition. This time it is to hire two permanent positions and two term positions. While we are hopeful that filling the permanent positions will be a positive step toward stability for the OIPC, filling two term positions where the length of the terms will be used mostly for training is disappointing. Who's got time for that?

Service Plan for the Office of the Information and Privacy Commissioner

April 1, 2024 – March 31, 2025

Introduction

This Service Plan serves as our Statement of Mandate and our Accountability Report. The Service Plan reports on the outcome of our performance in the past two years and sets new performance measures for the coming year.

Vision

- Nova Scotia’s public sector is open and accountable.
- Privacy rights of citizens are respected and protected.

Statement of Mandate

The Office of the Information and Privacy Commissioner (OIPC) is the impartial oversight agency responsible for monitoring and overseeing compliance with four statutes: the *Freedom of Information and Protection of Privacy Act (FOIPOP)*, the *Privacy Review Officer Act (PRO)*, the *Municipal Government Act, Part XX (MGA)* and the *Personal Health Information Act (PHIA)*.

Under these four statutes, the OIPC provides impartial oversight over more than 400 public bodies¹⁰ and more than 26,000 health custodians.

Who We Serve

Under *FOIPOP*, *PRO*, *MGA* and *PHIA* we serve:

- Citizens
- The Legislative Assembly of Nova Scotia

How We Do Our Work

Pursuant to the statutory duties assigned to the OIPC, we investigate access to information appeals and privacy complaints, conduct investigations into privacy breaches (including through self-initiated investigations), provide comments on the privacy and access implications of proposed legislation, programs, policies and technologies, conduct research, and educate the public about their access and privacy rights and public bodies about their legal obligations. Where necessary, the Commissioner conducts formal hearings and issues recommendation reports.

Outcome Highlights

The results of our performance measures were mixed. The three most noteworthy were:

- We saw a big increase in the acceptance rate of the Commissioner’s recommendations - from 48% in 2022/2023 to 77% in 2023/2024. This is a positive sign.
- We saw a slight decrease in our informal resolution rate - from 83% in 2022/2023 to 80% in 2023/2024. Our goal is 85%.
- We met with 717 Nova Scotians. Unfortunately, because the number of staff we have does not match the utilization of our services, we will not be able to keep this up. We will be scaling back our education and outreach efforts in 2024/2025. As a result, fewer Nova Scotians will benefit from our expertise and hear our message.

¹⁰ In the Service Plan section of this Annual Report, the term “public body” includes government departments, universities, regional centres for education, municipalities and municipal bodies, municipal police, transit authorities, health authorities, agencies, boards and commissions.

Goal 1: An Open and Accountable Public Sector

The goal of having an open and accountable public sector goes to the heart of the purpose of access to information laws. One of the ways to measure the effectiveness of those laws is to monitor the timeliness of responses. After all, access delayed is access denied.

The first measure we use is a measure outside of our control. It is the timeliness of government’s responses to access to information requests as reported by the government in its annual report.¹¹

2023/2024 Outcomes

The government does not report statistics on its performance until September following the close of the fiscal year. Therefore, the most recent statistics available for government performance are from 2022/2023. Information Access and Privacy (IAP) Services reported that in 2022/2023, government departments responded to access to information requests within 30 days 80% of the time. This is 4% higher than the previous year. The statistic is somewhat limited because while the law requires a response within 30 days, it also permits time extensions in some circumstances. What this means is that a perfect outcome will not necessarily be 100%, but certainly the departments should be aiming to be above 90%. Last year’s 80% rate falls below the 90% target rate we set for this performance measure.

There are two other measures we track in terms of how long government takes to process access to information requests: time extension requests¹² and deemed refusals.¹³ Time extension requests decreased by 18% in 2023/2024 and deemed refusal reviews increased by 563%.

This is a significant and concerning increase. Because of the importance of applicants receiving responses to their access requests in a timely manner, the OIPC has set high thresholds for approval of time extension requests. This year’s numbers indicate that these high thresholds for public bodies to meet in order to warrant approval of a time extension have made an impact. Time extensions that would have previously been submitted are not being submitted, resulting in extensions without authority. In many cases, the applicants who are subject to these unauthorized delays complain to our office, which increases our already overburdened workload. On a positive note, because our deemed refusal process has been designed to not create further delays to applicants, 90% of the applicants who come to us to address a deemed refusal got a decision issued to them within about 15 days.

2024/2025 Strategies

We have two main strategies this year:

- **Right to Know Week:** Right to Know Week is an event that calls attention to the significance of access to information legislation. This year we will develop a strategy to communicate the right to know to citizens in Nova Scotia.
- **Duty to Assist:** A foundational responsibility of public bodies under our access to information laws is the duty to assist applicants who make access to information requests. We plan to continue our past work on this topic by developing and publishing guidance materials to help public bodies understand and comply with their duty to assist.

Performance Measure	2022/23	2023/24	2024/25
1. Percentage of requests processed within 30 days by government departments.	Goal = 90% Outcome = 80%	Goal = 90% Outcome = not yet reported	Goal = 90%

¹¹ The most recent report available for Information Access and Privacy Services is the 2022/2023 Annual Report available at: <https://openinformation.novascotia.ca/Other-Disclosure/IAP-Services-Annual-Report-2022-2023/t385-ekvn/about_data>.

¹² Time extension requests occur when a public body or health custodian seeks approval from the OIPC to extend the time to respond to an access to information request to more than 60 days. There are several legislated criteria that the public body or health custodian must meet in order to be granted a time extension.

¹³ Deemed refusals are cases where the public body or health custodian has not responded at all within the legislated timelines (with or without a time extension) and so they are deemed to have refused to provide the information requested.

Goal 2: Respect for and Protection of Privacy by Public Bodies and Health Custodians

2023/2024 Outcomes

It is difficult to measure respect for and protection of privacy by public bodies and health custodians. We thought one way was to examine the number of privacy complaints we receive on a yearly basis. In 2019/2020 we introduced a new measure to track this change and set a goal of reducing the number of new privacy complaints by 20%. However, each year we are getting more complaints, not less. In 2023/2024, this number was blown out of the water due to the MOVEit cyber security breach and a couple of repetitive applicants who file many privacy complaints. As such, we are retiring this measure. This is a disappointing outcome. We will introduce a new measure next year where the results are in our control - something education-based.

A good way to improve respect for and protection of privacy among public bodies and health custodians is to provide training and information so that those tasked with ensuring compliance with privacy laws understand the rules. Last year, we reached just over 700 people with our education and outreach programs.

We offer a variety of services to public bodies and health custodians to assist them with privacy issues. This year, we provided the following services:

- 50 privacy consultations were completed.
- 15 voluntary breach reports were received and OIPC feedback was given.

While the numbers are up only slightly from 2022/2023, we still view this as being a good indicator that public bodies and health custodians are showing respect for privacy.

...we believe consulting our office in advance of introducing laws that affect the access and privacy rights of Nova Scotians is valuable and should be mandatory.

Unfortunately, no public bodies or health custodians consulted with us on privacy impact assessments (PIAs) in 2023/2024. We normally provide feedback on two or three each year. We don't know if this indicates that PIAs are not being done, or if public bodies and health custodians do not see the value in engaging the expertise of the OIPC. Unlike some other jurisdictions, OIPC review of PIAs is not mandatory in Nova Scotia.

We were also not consulted on any draft legislation. While this is normal, we believe consulting our office in advance of introducing laws that affect the access and privacy rights of Nova Scotians is valuable and should be mandatory. In the case of [Bill 419](#), had our office been consulted on the draft legislation, we could have provided our expertise and thoughts on whether the concerns being expressed about the impacts of the changes to *PHIA* could have been addressed.

Because of our capacity issues, we were not able to offer any training sessions. We also had to decline two requests for training sessions because we just could not find the time to plan and provide them.

Goal 2: Respect for and Protection of Privacy by Public Bodies and Health Custodians

In 2023/2024 we were a regular contributor for the Doctors Nova Scotia's newsletter. In addition, we produced, or helped to publish, three privacy tools:

- [Protecting Patient Information in Practice and Beyond](#)
- [Need-to-Know Instead of Circle of Care](#)
- [Privacy Pursuit! Lesson plans for grades 2-8 from the Office of the Information and Privacy Commissioner of Ontario](#)

2024/2025 Strategies

We are going to have to make some very hard choices in 2024/2025. We started declining requests for training, speeches, meetings and media interviews in 2023/2024 (we declined 15 requests) and we will have to continue doing so because our resources have not changed despite the increased demand on our services. We will continue to look for opportunities to produce tools based on the topics and issues that we are being contacted about.

Performance Measure	2022/23	2023/24	2024/25
2. Reduction in the number of privacy complaints received. (Baseline = 13)	Goal = ↓20% Outcome = ↑39% ¹⁴	Goal = ↓20% Outcome = ↑672% ¹⁵	Goal= N/A

Goal 3: Public Awareness of Access and Privacy Rights

2023/2024 Outcomes

Our third goal was to increase the public's awareness of their access to information and privacy rights. We measure this goal by keeping track of the number of individuals who attend OIPC presentations and by tracking our presentations, tools and media articles.



In 2023/2024, we participated in and presented at some public awareness events, but did less than usual given our resource issues. Our main message continued to be the need for modernization of Nova Scotia's legislation to improve access rights and better protect privacy. We were able to share our message with 717 people, which was more than our goal. We also updated two of our tools for applicants.

- [Applicant Responsibilities](#)
- [Missing Records?](#)

¹⁴ We received 18 privacy complaints in 2022/2023.

¹⁵ We received 139 privacy complaints in 2023/2024. Of those, 110 were about the MOVEit cyber security breach.

Goal 3: Public Awareness of Access and Privacy Rights

2024/2025 Strategies

While the pandemic is no longer impacting our ability to provide training and presentations, our lack of staff is. Understaffing has created a capacity issue that means some hard choices about how we allocate our resources.

These hard choices will continue to need to be made. By necessity, it may mean stopping our outreach and education program for 2024/2025.

If possible, we will continue to develop tools for the public to post on our website.

Performance Measure	2022/23	2023/24	2024/25
3. Total number of individuals who attend OIPC presentations in Nova Scotia. ¹⁶	Goal = 700 Outcome = 691	Goal = 700 Outcome = 717	Goal = 700
4. Number of OIPC presentations, media articles and tools. ¹⁷	Goal = 40 Outcome = 58	Goal = 40 Outcome = 70	Goal = 40

Goal 4: Efficient and Effective OIPC Operations

2023/2024 Outcomes

Our final goal was to implement efficient and effective OIPC operations. Every year it becomes more difficult to achieve this goal because most years we get more files than the year before without a corresponding increase in our number of staff. 2023/2024 was no exception. In fact, we saw the largest increase in new files received in the history of our office. We received 133% more access reviews and privacy complaints over the previous year. We closed 20% fewer files, resulting in the backlog growing by 221 files.¹⁸

Also, in 2023/2024, we experienced more staff losses, resulting in vacancies that could not be filled because of the short time frames involved. This significantly impacted our ability to work on files and reduce our backlog.¹⁹

Nevertheless, we are confident we are headed in the right direction, and we are looking to have a full staff complement in 2024/2025. We are hiring for two permanent positions and for some temporary positions. While competitions and orientation do put a lot of extra work on existing staff, and thereby negatively affect our ability to reduce our backlog, we are optimistic that we will make better progress on the backlog in 2024/2025.

This year, we had some success in resolving files without the need to go on to a public review report. This year our informal resolution rate was 80%, which was a slight decrease from the previous year and lower than our goal. Considering our staffing challenges, we still consider this a success.

¹⁶ Presentations include speeches, meetings, training sessions, and public education sessions.

¹⁷ Presentations include speeches, meetings, training sessions, and public education sessions, not necessarily in Nova Scotia.

¹⁸ See page 14 of this Annual Report for more information about our backlog.

¹⁹ See pages 8-21 of our [2021-2022 Annual Report](#) and our [Submission to the Nova Scotia Government on its review of Nova Scotia's access and privacy laws \(2024\)](#) for more information about our backlog.

Goal 4: Efficient and Effective OIPC Operations

On the other hand, where review reports were issued, we saw a large increase in public bodies' and health custodians' uptake of the Commissioner's recommendations. This year, the number of recommendations public bodies and health custodians accepted went from 48% in 2022/2023 to 77%. This is very positive. Last year appears to have been an anomaly. Despite this positive outcome, we continue to believe that the fact that public bodies and health custodians are not required to comply with the Commissioner's recommendations is a significant weakness in our access to information and privacy laws and we have continued to advocate for the laws to be modernized to fix this weakness.

The main way we achieve efficient and effective operations is to provide our staff with the training and support they need to do their jobs well. 2023/2024 was the second year we received a training budget.

We were able to offer staff a variety of learning and development opportunities related to:

- Specialized training for OIPC investigators;
- Administrative justice;
- Project management, change management and work process improvement;
- Communication and conflict resolution;
- Time management and productivity;
- Workplace health, safety and wellness;
- Diversity, culture, heritage and language;
- Orientation, career and retirement.

2024/2025 Strategies

We will continue our strategies of regular case file reviews, team meetings and staff training. We will also continue to examine our processes for opportunities for improvement.

In terms of the acceptance rate of the Commissioner's recommendations, this measure is largely out of our control. We have and will continue to encourage the government to update the legislation.²⁰ The government began its review of the legislation in the fall of 2023. Our public submission is available on our [website](#). We are hopeful that the review will be completed in the spring of 2025, as advertised. The time for change is long overdue.

Performance Measure	2022/23	2023/24	2024/25
5. Percentage of access and privacy inquiries that receive a response within two days. ²¹	Goal = 98% Outcome = 98%	Goal = 98% Outcome = 98%	Goal = 98%
6. Percentage of reviews (<i>FOIPOP</i> , <i>MGA</i> and <i>PHIA</i>) that are resolved informally. ²²	Goal = 85% Outcome = 83%	Goal = 85% Outcome = 80%	Goal = 85%
7. Percentage of review report recommendations accepted by public bodies.	Goal = 65% Outcome = 74%	Goal = 65% Outcome = 77% ²³	Goal = 65%

²⁰ In 2021, the Minister of Justice was given a [mandate](#) to amend *FOIPOP* to give the Commissioner order-making power.

²¹ Inquiries are telephone calls, letters and emails that request basic access and privacy information such as how to file an access request, where to file a request, how to file a review and general privacy rights. In 2023/2024 we responded to 1417 of 1443 inquiries within two days.

²² Mediation, informal resolution, screened and withdrawn cases are included in this category. In 2023/2024, 111 of 138 *FOIPOP*, *MGA* and *PHIA* reviews were resolved informally.

²³ Between April 1, 2023 and March 31, 2024, the Commissioner issued 20 review reports that related to 20 files. In total, the Commissioner made 43 recommendations of which 33 were accepted and 10 were rejected.

Annual Report Statistics

All Files Opened and Closed Under *Freedom of Information and Protection of Privacy Act, Privacy Review Officer Act, Municipal Government Act (Part XX), Personal Health Information Act*

	FOIPOP, PRO & MGA OPENED	PHIA OPENED	TOTAL OPENED	FOIPOP, PRO & MGA CLOSED	PHIA CLOSED	TOTAL CLOSED
Access and Correction Requests for Review						
Reviews	242	5	247	132	6	138
Privacy Complaints						
Privacy complaints received	123	16	139	28	3	31
Commissioner own-motion	4	1	5	2	1	3
Files Initiated by Public Bodies						
Breach notifications	8	5	13	8	7	15
Privacy impact assessments	1	0	1	0	0	0
Access and privacy consultations	51	28	79	51	28	79
Time extension requests	147	0	147	148	0	148
Late transfer requests	3	0	3	3	0	3
Disclosures without consent to researcher		0	0		0	0
Breaches with no potential for harm or embarrassment		842	842		842	842
Prescribed entity's information practices		0	0		0	0
Outreach and Education						
Inquiries	1316	129	1445	1315	128	1443
Media requests	34	1	35	33	1	34
Speaking engagements ²⁴	32	4	36	31	4	35
Public education	1	0	1	1	0	1
Staff training and conferences	17	0	17	16	0	16
Tools made available	4	2	6	5	2	7
Committees ²⁵	7	2	9	7	2	9
Projects ²⁶	6	0	6	7	0	7
Other ²⁷	12	1	13	11	2	13
Total	2008	1036	3044	1798	1026	2824

²⁴ Speaking engagements include: media outreach (IPC initiated), meetings, speeches, training given.

²⁵ Committees include: international memberships such as Common Thread Network, ICDPPC and GPEN; cross-jurisdictional initiatives; and provincial government responsibilities.

²⁶ Projects include: participation in multi-jurisdictional initiatives such as facial recognition apps; surveys; Data Privacy Day and Right to Know Week; system created to track breach reporting by custodians; internal and external resources such as proactive disclosure of our comprehensive statistics and analysis of the provincial government's trends; and submissions on legislative amendments to *PHIA*.

²⁷ Other includes: submissions on bills; distribution of materials and tools; providing unsolicited advice on public body initiatives and analyzing various privacy topics.

Budget History

Budget History (for FOIPOP, MGA and PRO)			
Category	Forecast for 2024-2025	Actual for 2023-2024	Actual for 2022-2023
Salaries and Benefits	1,116,000	1,145,372	1,232,909
Travel	9,000	16,135	6,093
Professional/Special Services	6,000	3	10,806
Supplies and Services	35,000	20,665	23,271
Other	115,000	153,609	111,323
Adjustments ²⁸	0	(231,163)	(256,788)
Total Budget Spent	1,281,000	1,335,784	1,384,402
Total Budget Given	1,281,000	1,191,000	1,150,000
% of Budget Spent	100%	112%	120%

Budget Request History

Throughout this Annual Report, you will find reference to the budget request submissions we have made. Here is a summary of what we requested and what was approved:

	Staff requested	Funds requested	Amount Approved
2024-2025	8	1,031,000	0
2023-2024	4	582,000	0
2022-2023	4	597,000	0
2021-2022	3	323,000	0
2020-2021	2	220,000	\$220,000 and 2 staff
2019-2020	2	141,000	0
2018-2019	1	61,000	0
2017-2018	2	136,000	\$75,000 and 1 staff
2016-2017	1	51,000	0

For many years we spent more budget than we had approval for. The overspend is addressed through additional appropriations. The Auditor General has been vocal about her criticism that the additional appropriations process in Nova Scotia lacks accountability and transparency through the legislature.²⁹ Here is a summary of our additional appropriations:

	Budget Given	Budget Spent	Additional Appropriations
2021-2022	957,000	961,000	4,000
2019-2020	715,000	738,000	23,000
2018-2019	707,000	716,000	9,000
2016-2017	603,000	620,000	17,000

²⁸ Adjustments is the transfer of funds received from three departments to cover the three two-year term positions that were loaned to the OIPC. Because these were loaned, the costs associated with their salaries and benefits were not allotted to our budget; they were paid by the departments.

²⁹ See the [Report of the Auditor General to the Nova Scotia House of Assembly, 2023 Financial Report](#).

Appendix 1
Annual Report Under Section 18 of the
Public Interest Disclosure of Wrongdoing Act

The following is a summary of disclosures received by the Office of the Information and Privacy Commissioner for Nova Scotia:

Information Required Under Section 18 of the Act	Fiscal Year 2023/2024
The number of disclosures received	0
The number of findings of wrongdoing	N/A
Details of wrongdoing	N/A
Recommendations and actions taken on each wrongdoing	N/A



Contact Information:

PO Box 181, Halifax, NS B3J 2M4

Phone: 902-424-4684 No Charge-Dial: 1-866-243-1564

TDD/TTY: 1-800-855-0511 Fax: 902-424-8303

Email: oipecns@novascotia.ca / Web: <https://oipec.novascotia.ca>

X: [@NSInfoPrivacy](#)