



**Freedom of Information and Protection of Privacy  
Review Office**

**Business Plan 2008-2009**

April 21, 2008

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## Freedom of Information and Protection of Privacy Review Office

### **Message from the Freedom of Information and Protection of Privacy Review Officer**

It has been one year since my five-year appointment as Nova Scotia's Freedom of Information and Protection of Privacy Review Officer. It has been an exciting year and many of the priorities we outlined in last year's Business Plan in March 2007 have been accomplished. Presenting the second Business Plan provides the Review Office team the opportunity to reflect on our challenges and goals in relation to the overall strategies set by the Province.

I am most appreciative to the staff at the Review Office, officials at Justice, all the other Canadian Commissioners and all the information, access and privacy professionals working for public bodies for their assistance and patience during my first year in office. I am also pleased to have been asked to act as a Mentor in the new Mentorship program established by GoverNEXT and have enjoyed working with my mentoree.

Many of the strategies identified by the provincial government as being priorities including education, environment, building community capacity, and health care resonate with the Review Office. This is because an important feature of making those goals a reality is public participation, consultation and engagement. The mandate of our Office set out in the Freedom of Information and Protection of Privacy Act and Part XX of the Municipal Government Act is to provide an independent review for access and privacy decisions and to promote the public's right to access information and protection of privacy enhancing the public's opportunity to actively participate in our democracy. To that end, we are in the process of preparing a plain language guide for citizens to help them further understand access and privacy issues and we hope to work closely with Democracy 250 to broaden awareness of our office.

Staff changes at the Office, emerging privacy issues, and the continuing need for training in access decisions under the legislation are a few of the major issues that will face the Review Office in the coming months. This Business Plan for 2008-2009 will assist us in keeping our work focused and seen in the broader context of the work of the Province.

Respectfully submitted,

Dulcie McCallum,  
Freedom of Information and Protection of Privacy Review Officer for Nova Scotia

Receipt Acknowledged

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Cecil Clarke,  
Minister of Justice

**Mission**

To provide independent oversight of the Freedom of Information and Protection of Privacy Act and Part XX of the Municipal Government Act, to investigate requests and complaints from individuals and groups who feel that their access to information rights or their privacy rights, as provided for in both Acts, have not been respected, and to make recommendations to public bodies to rectify their processes and practices with respect to access requests or protection of privacy.

**Link to Corporate Path**

The Review Office is contributing to the overall Corporate Path direction and priorities within the context of fiscal sustainability and a balanced budget. Specifically, the Review Office is working to achieve a globally competitive and healthy workforce; lead in privacy research and innovative guidelines; and provide a safeguard to ensuring accessible information services for all Nova Scotians.

**Planning Context**

The Review Officer, appointed by the Governor in Council under the authority of the Freedom of Information and Protection of Privacy Act, administers the Freedom of Information and Protection of Privacy Act and Part XX of the Municipal Government Act. The Review Officer, 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 Officer also investigates privacy issues related to the Acts. The Review Officer employs informal resolution such as analysis, investigation, and mediation, or may confirm the decision of the government or public body and, where applicable, make recommendations for the decision to be adjusted or changed. An additional function of the Review Office is to be a proactive educational leader in the areas of access and privacy.

The Nova Scotia Freedom of Information and Protection of Privacy Review Office (Review Office) currently employs four people and has one office, located in Halifax. As of 2007, the four full time employees include a Review Officer, a Mediator/Investigator, a Case Review Analyst and an Intake/Administrative Assistant. For a three month period at the beginning of this year, we had a casual Case Review Analyst, who was on loan from a public body. We are now working with the Department of Justice to identify money within the existing budget to fund a second Case Review Analyst. Additional funding was not given to fund an FTE for this Case Review Analyst position in the 2008-2009 Budget. The rationale behind the addition of staff is to move forward with greater emphasis on timeliness of access reviews, privacy complaint investigations and public education in access and privacy. This will include the distribution of our new Plain Language Guide, Respecting Your Access and Privacy Rights - A Citizen's Guide for Nova Scotians, through public libraries and Access Nova Scotia offices. In addition, the Review Office was invited and has been working collaboratively with the Office of the Privacy Commissioner of Canada in their new regional engagement with respect to the Personal Information Protection and Electronic Documents Act (PIPEDA).

The reclassifications of the Mediator/Investigator and the Case Review Analyst positions has now been completed and is with the Public Service Commission. The reclassifications have been

put on hold until the work of the Public Service Commission Evaluation Committees is completed.

Because of a secondment request by the incumbent Mediator/Investigator, an opportunity was created to allow two existing staff to move into Acting positions thus enabling mobility within a small organization and the chance for existing staff to fully understand and appreciate the roles of their teammates. This situation will be in place for 6 months. Staff requirements will be re-evaluated at that time.

## **Strategic Goals, Core Business Areas, Priorities and Performance Measures \_**

### **Strategic Goals**

The Government Business Plan for 2008-2009 will identify five categories of immediate priorities that include:

- Educating to Compete
- Protecting our Environment
- Better Roads and Infrastructure
- Safer, Healthier Communities
- Shorter Wait Times

In accomplishing its mission, the Freedom of Information and Protection of Privacy Review Office plans to contribute to the Government's priority of providing accessible, transparent, and responsible government by holding it accountable for all decisions made with respect to access and privacy. Thus, in addition to continuing with initiatives around privacy, the Review Office will focus on the importance of access to information for all citizens as a foundational piece of enhancing the public's opportunity to participate in discussions about education, environment, infrastructure resources, safety, and health; the goals identified as provincial priorities.

In order to accomplish its mission, the goals of the Freedom of Information and Protection of Privacy Review Office 2008-2009 are:

1. Continue to develop relationships with FOIPOP Administrators and the FOIPOP Coordinator's Office with a view to improving the training of administrators and the level of support given by the Review Office to promote providing greater access in the first instance thus decreasing the number of Requests for Review and to improve the understanding of the legislation by those working with it on a daily basis and the decisions under the statutes. Particular attention will be given as to how to improve training for administrators who work under Part XX of the Municipal Government Act.
2. To formally recognize the investigation of privacy complaints under the Freedom of Information and Protection of Privacy Act and under of Part XX of the Municipal Government Act falling within the Review Officer's mandate and to undertake the required public education process with respect to protection of privacy.

3. Increase public awareness, access and understanding of legislated rights and obligations under the Freedom of Information and Protection of Privacy Act, and Part XX of the Municipal Government Act; and the role of the Review Office, including public outreach to specifically address the lack of diversity in the applications received by the Office.
4. To promote systemic change by researching best practices, evaluating current policies and procedures, networking with other oversight bodies and developing new tools and resources which support the Review Office's mandate and also by addressing broader access and privacy issues.

## **Core Business Areas**

### **1. Requests for Review of Access Decisions**

Ensure Nova Scotians understand their right to access personal and other information held by public bodies and their right to an independent review of decisions made with respect to those requests for access through:

- Circulating the new, user-friendly “bookmark” style educational tool outlining the basic functions and role of the Review Office to more rural libraries.
- Designing, publishing and distributing a Plain Language Guide that is user-friendly and accessible to all Nova Scotians to act as an educational tool.
- Preparing and publicly releasing all Review Reports on the website and ensure that each Report is comprehensive and lays out jurisprudence from other jurisdictions with similar cases to provide an educational tool for FOIPOP Administrators and others working in the field of access to information, Applicants and Third Parties.
- Providing follow-up to determine if recommendations were adopted.

### **2. Privacy Complaints**

Ensure Nova Scotians' privacy complaints are addressed in a systematic, objective and independent manner through:

- Establishing best practices during the intake, analysis, investigation, mediation and formal Review of privacy complaints.
- Recommending ways to improve privacy protection for all Nova Scotians through public and private Reports.
- Providing follow-up to determine if recommendations were adopted.
- Proactively addressing privacy concerns through workshops, guidelines and other forms of outreach with public bodies and the general public.
- Assist the Privacy Commissioner of Canada to establish a regional engagement in Nova Scotia to improve the private sector's understanding and compliance with the federal privacy legislation [PIPEDA].

### **3. Awareness and Education**

Increase awareness, understanding and education of the Freedom of Information and Protection of Privacy Act and Part XX of the Municipal Government Act. Enhance the development of our communication strategy, mandate of the Review Office and increase citizens' accessibility to information and privacy through:

- Providing an orientation to all new FOIPOP Administrators on the role and responsibilities of the Review Office and on the Review process as part of the FOIPOP training done through Justice.
- Undertaking communication initiatives to increase the profile of the Review Office and of privacy and access rights, such as continued promotion of and participation in the Atlantic Access and Privacy Conference.
- Creating public outreach programs for citizens, interest groups and organizations on access and privacy issues.
- Improving the accessibility of Review decisions/Reports by continuing publication on the Review Office Website, CanLII, Quicklaw and Listserv.
- Reaching out to participate in Democracy 250 celebrations to highlight the role of access to information and privacy as a cornerstone of democracy.
- Responding positively, whenever possible, to the many requests for speeches, to maximize the opportunities for the FOIPOP message to be heard.
- Providing the Review Office staff with training opportunities that will enhance their delivery of the message. Focus will be on such training as: French as a second language, Diversity and Employment Equity, the Information Access and Protection of Privacy Certificate program through the University of Alberta, Presentation Skills and Business Process Improvement.

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### **4. Best Practices**

Create and promote best practices in the Review process through:

- Maintaining an independent, timely and well-resourced Review process.
- Networking with Information and Privacy Commissioner Offices to find new tools and methods of review, including supporting the creation of an Atlantic Canada regional office for the federal Office of the Privacy Commissioner.
- Evaluating and auditing current practices.
- Participating in conferences with our provincial/territorial and federal counterparts.
- Reviewing the statute to determine if the Review Officer can assist the Department of Justice by suggesting improvements that could be made to legislation and, if so, present a Brief with recommendations to the Minister of Justice. This would not be solely with respect to the Review Officer's role but to take into account the rapid changes and emerging issues in the areas of privacy, technology and security important to protect all Nova Scotians [electronic health records, privacy, enhanced driver's licence etc].

## **Priorities**

### **1. Requests for Review of Access Applications**

Our priorities for 2008-2009 are as follows:

- Continuing efforts to advance the awareness of all Nova Scotians about their rights to access information, personal and other, and their right to an independent Review of all decisions made by public bodies in that respect.
- Engaging with the Minister of Justice on the need to review legislation for any necessary amendments and improvements including but not limited to two amendments to bring the legislation in line with the rest of Canada, to change the name of the office to Commissioner and to make the Commissioner an Officer of the Legislative Assembly and to make provisions in law for independent privacy oversight.
- Participating in training events for FOIPOP Administrators, including those hosted by Justice or speaking at conferences, to advance the quality of decisions made in the first instance when responding to access requests from the public, thus decreasing the necessity to rely on Requests for Review. Priority will be given to training those under Part XX of the MGA.

### **2. Privacy Complaints**

Our priorities for 2008-2009 are as follows:

- Publicly clarifying privacy rights for all Nova Scotians and the role of the Review Officer in that respect.
- Increasing efforts with the Minister of Justice on the need to review the legislation for any necessary amendments and improvements including but not limited to legislatively clarifying the inconsistencies between the guaranteed purpose of the Acts, to provide the public with independent oversight of decisions pursuant to the Acts, and the perceived lack of the role of the Review Officer vis a vis privacy matters.
- Increasing public consultation and focus on privacy issues.
- Collaborating with the Privacy Commissioner of Canada to assist her in efforts to bring attention to privacy matters in the private sector in Nova Scotia.
- Developing staff training plans including training on privacy issues.

### **3. Awareness and Education**

Our priorities in 2008-2009 are as follows:

- Advocating for the spirit and intention of the legislation including increasing the awareness of citizens and public servants of their rights and obligations under the governing statutes.
- Developing and implementing a public outreach plan to enhance the profile and accessibility of the Review Office especially in rural Nova Scotia and with groups that represent the diversity of the Nova Scotia public.
- Creating, publishing and distributing an access to information plain language guide to be made available throughout the public library system and Access Nova Scotia offices.



#### **4. Best Practices**

Our priorities in 2008-2009 are as follows:

- Networking with other Information and Privacy Commissioners through increased participation in national workshops, conferences and seminars.
- Provide sufficient information and assistance as is practicable and appropriate [primarily through Review Reports] to FOIPOP Administrators to promote best practices in facilitating the public's right to access including timeliness of processing access requests, improved quality of decisions to applicants about their request and enhanced practice in fulfilling the statutory duty to assist.
- Working towards a University of Alberta Information Access and Protection of Privacy certificate for all staff.
- Evaluating current practices and research review practices in other jurisdictions and conducting an internal self-audit.

## Performance Measures

<b>Review of Access Applications</b>					
<b>Outcome</b>	<b>Measure</b>	<b>Base Calendar Year</b>	<b>Target : 2008/2009</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
Educating the public and those working as a FOIPOP Administrator on the role of the Review Office and encourage dialogue between those parties.	Decrease in the number of Review Requests received.	2007 - 77 Reviews.	2008 - decrease the number of Reviews by 5% over 2007. 2009 - decrease the number of Reviews by 5% over 2008.	60 Reviews Total in 2012, the result is fewer Reviews opened due to a lack of communication or a misunderstanding of the process.	Participate in Right to Know Week activities, Public Outreach sessions and provide an introduction to the Review Office for all new Administrators.

<b>Review of Privacy Complaints</b>					
<b>Outcome</b>	<b>Measure</b>	<b>Base Calendar Year</b>	<b>Target : 2008/2009</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
Promoting the Review Officer as the oversight for privacy complaints.	Increased number of privacy inquires, investigations.	2006 - 5 privacy complaints were accepted, 1 was not investigated. 2007- 5 privacy complaints were accepted.	100% of privacy investigations within our jurisdiction are opened and investigated.	100% of privacy investigations within our jurisdiction are opened and investigated.	Publicly clarifying privacy rights under the jurisdiction of the Review Office for all Nova Scotians.
Systematic efficient and effective privacy complaint process.	Develop processes and procedures to measure the timeliness of privacy investigations.	Base calendar year 2007 - Process and communication documents created.	Gather and report the statistics on the number of days it takes to conclude a privacy investigation. Analyze information to determine effectiveness of current processes.	Develop and maintain an acceptable standard in which to conclude privacy investigations effectively and efficiently. Ensure that the Review Office has adequate human resources to meet the standard.	Monitor response times by public bodies and privacy investigation timelines.

<b>AWARENESS AND EDUCATION</b>					
<b>Outcome</b>	<b>Measure</b>	<b>Base Calendar Year</b>	<b>Target : 2008/2009</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
Increased awareness of the right to access information and protection of privacy.	Increase in the number of presentations, information sessions and training on the role of the Office and governing legislation.	Base calendar year 2004 - 8 2005 - 13 2006 - 10 2007 - 8	2008 - increase in the number of presentations and information sessions by 20% over 2007. 2009 - increase the number of presentations and information sessions by 20% over 2008. Sessions to be throughout Nova Scotia as 44.2% of citizens live in rural communities.	In the year 2012, provide 20 presentations and information sessions throughout the province so that all Nova Scotians have an opportunity to participate in public outreach programs.	Developing and implementing an Educational outreach program accessible to all Nova Scotians . Provide staff with training opportunities in French, cultural competency and dealing with challenging individuals. Promoting and hosting Right to Know Week.

<b>BEST PRACTICES</b>					
<b>Outcome</b>	<b>Measure</b>	<b>Base Calendar Year</b>	<b>Target : 2008/2009</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
Providing information on the internal process and functions of the Review Office, including tools, tips, resources and processes.	Key documents posted to the Review Office website. Create a new link devoted to privacy on our website.	New Target.	Review policies and procedures on an annual basis and make available to the public.	Ensure that 100% of those involved in the Review Process are informed and have the information that they need to fulfill their part.	Develop, finalize and implement. Contribute staff time and resources to auditing and evaluating current practices. Develop a research networking plan to find best practices in other jurisdictions.

## Human Resource Strategy

### Office Demographics:

As of September 2007, the Freedom of Information and Protection of Privacy Review Office has a staff of four. We are working with the Department of Justice to identify money within the existing budget to fund a second Case Review Analyst.

The Office has not experienced and reported any occupational health and safety incidents in the past fiscal year.

The Freedom of Information and Protection of Privacy Review Office will work towards the Globally Competitive Workforce goal of the Corporate Path which aligns with the Corporate Human Resource Strategy:

- monitor workload especially with regards to privacy investigations to determine if additional investigation/analytical staff are required.
- provide student-placements on a regular basis through diversity, mentorship, co-op and work placement initiatives.
- continue to participate in healthy workplace initiatives.
- send notification of any Review Office positions posted on the Nova Scotia Employment Opportunities website to Diversity organizations.
- continue staff participation in diversity training.
- continue efforts to provide services in English and French through staff French training and using Interpretation Services when needed.
- continue with its practice of encouraging and accommodating staff who enroll in post-secondary programs.

### Budget Context:

	<b>2007-2008 Estimate</b>	<b>2007-2008 Forecast</b>	<b>2008-2009 Estimate</b>
<b>Program &amp; Service Area</b>	<b>(\$ thousands)</b>	<b>(\$ thousands)</b>	<b>(\$ thousands)</b>
<b>Total Program Expenses</b>			
<b>Administration</b>	<b>383</b>	<b>393</b>	<b>427</b>
<b>Total Program Expenses</b>	<b>383</b>	<b>393</b>	<b>427</b>

<b>TCA Purchase Requirements</b>	<b>---</b>	<b>---</b>	<b>---</b>
<b>Funded Staff (FTEs)</b>	<b>4</b>	<b>4.1</b>	<b>4</b>