



**Freedom of Information and Protection of Privacy  
Review Office  
Dulcie McCallum, Freedom of Information and Protection of Privacy Review  
Officer/Deputy Head**

**Statement of Mandate**

**March 31, 2011**

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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/Deputy Head Dulcie McCallum**

**March 31, 2011**

This Statement of Mandate marks the first full year anniversary of my appointment as Nova Scotia's first Privacy Review Officer and the fourth anniversary of my appointment as Nova Scotia's Freedom of Information and Protection of Privacy Review Officer.

Three separate pieces of legislation now govern our role as the independent oversight body for decisions made by public bodies with respect to access to information requests and privacy complaints. The mandate of the Review Officer is set out in the *Freedom of Information and Protection of Privacy Act, Part XX* of the *Municipal Government Act* and most recently the *Privacy Review Officer Act*. The particulars of the Review Officer's role are comprehensively laid out in a plain language guide for citizens - *Respecting Your Access and Privacy Rights: A Citizen's Guide for Nova Scotians*. This *Guide* helps citizens further understand access and privacy issues. The *Guide* is available on-line at [www.foipop.ns.ca](http://www.foipop.ns.ca), and through public libraries, MLA constituency offices and Access Nova Scotia offices.

The governing legislation, which now provides clear statutory oversight protections in both access and privacy in Nova Scotia, has gained international recognition for Nova Scotia. For the first time in history, in November 2010, the Nova Scotia Freedom of Information and Protection of Privacy Review Officer was granted full accreditation by the Accreditation Committee of International Data Protection and Privacy Commissioners. In the coming year, I intend to collaborate not just with my Canadian colleagues but also the community of international data protection and privacy professionals. Engaging in discussions about access and privacy experiences of Commissioners world-wide will give expression to the work of Nova Scotia information and privacy professionals and provide considerable support and knowledge.

Privacy issues emerge on a daily basis with often troublesome results for individuals who experience privacy breaches. The Review Office plans to continue to evaluate how to best address these concerns. In accordance with the new *Privacy Review Officer Act*, I have made it known I am open to requests for privacy consultation from public bodies, within the limits of available resources, I am prepared to educate and be educated about all the emerging privacy concerns. This includes giving consideration to the appropriate exercise of another new power in the new *Act*: the Review Officer's ability to initiate her own motion privacy investigation.

In years past, the Review Office website has been maintained completely in-house. In the coming year, the Review Office plans to devote additional resources to building an even more informative and engaging website to benefit members of the public.

The Review Office will continue to contribute to the Right to Know Week celebrations in the fall that highlight the importance of the right of access to information. The Canadian Information

Commissioner is hosting an international commissioners' conference in Ottawa in the fall which the Review Officer will attend. This will occur in proximity to the Canadian Bar Association's 2<sup>nd</sup> annual access and privacy conference in Ottawa and the annual Canadian Commissioners' summit to be held in Quebec City. Also, the Review Office continues to support and celebrate Data Privacy Day in January at the event hosted and presented by Dalhousie University.

The Review Officer has brought a gap in the *Privacy Review Officer Act* to the attention of the Department of Justice. The oversight provisions in the *Act* were inadvertently not extended to privacy complaints under *Part XX* of the *Municipal Government Act*. The Department of Justice has indicated an intention to correct this absence of privacy oversight protection for citizens in relation to their local governments.

Over the past three years, the Review Office has devoted considerable time to collaborating and providing feedback to the Department of Health [and Wellness] with respect to a new personal health information Bill. The Bill was introduced into and passed the House of Assembly in the fall 2010 session but has not been proclaimed. The legislation mandates new independent oversight responsibilities for the Review Officer with respect to access to personal health information and the protection of privacy. In the coming year, the Review Office will continue to adopt a collaborative and constructive approach in working with the Department of Health and Wellness as the province moves towards proclamation of the personal health information legislation.

The Review Office is committed to continue working with public bodies, Information Access and Privacy professionals [FOIPOP Administrators] in Nova Scotia and all the other Canadian federal, provincial and territorial Commissioners. This work continues to the benefit of everyone's efforts to promote access to information and privacy protection for all citizens. My staff and I will continue to make ourselves available to provide presentations and explanations with respect to the Review Office mandate and processes.

This Statement of Mandate for 2011-2012 is publicly available and is intended to assist the citizens of Nova Scotia to understand the mandate and priorities of the Review Office. It complements the duty to file an Annual Report with the House of Assembly. While an independent oversight body remains at arm's length from government, the Review Office is able to commit to one of its publicly stated priorities: financial balance and living within its means.

Respectfully submitted,

Dulcie McCallum  
Freedom of Information and Protection of Privacy Review Officer

Receipt Acknowledged

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Honourable Ross Landry  
Attorney General and Minister of Justice

## **Review Officer's Mandate**

To provide independent impartial oversight of decisions made by public bodies by receiving Requests for Review under the *Freedom of Information and Protection of Privacy Act, Part XX* of the *Municipal Government Act* and of privacy matters under the *Privacy Review Officer Act* [*“the Acts”*]. Thereafter, the Review Officer investigates the requests/complaints from individuals and/or groups who feel public bodies have not respected their access to information rights or their privacy rights, as provided for in the governing *Acts*. After an investigation, the Review Officer may issue a public Report that will include findings and recommendations to the named provincial, municipal and local public body to reaffirm, alter or modify its decision and to rectify its processes and practices with respect to access to information requests and/or protection of privacy.

In addition, under the *Privacy Review Officer Act*, the Review Officer is empowered to monitor how privacy provisions are administered, initiate an investigation of privacy compliance, undertake research matters, inform the public and, on request of a public body, provide advice and comments on privacy.

**Performance Measures**

<b>RIGHT TO ACCESS: Requests for Review of Public Body Access Decisions</b>					
<b>Outcome</b>	<b>Measure</b>	<b>Base Calendar Year</b>	<b>Target : 2011-2012</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
<p>Educating applicants, third parties and those working as FOIPOP Administrators about the role of the Review Officer and encouraging those parties to apply precedents to the matter at hand thereby expediting the resolution of Requests for Review to better serve the public.</p> <p>Issuing informative and clear public reports after formal Review that provide guidance including precedents and the appropriate interpretation of access to information legislation.</p>	<p>Respond to 100% of all inquiries about access and Reviews at Intake within 2 business days.</p> <p>Increase the number of Review Requests resolved early in the process through informal resolution.</p> <p>Increase the number of Review Reports relied upon by the Portfolio Officers and the Investigator for discussions and negotiations in achieving informal resolutions.</p>	<p><b>Intake Inquiries</b> 2008 - 741. 2009 - 1163. 2010 - 1309.</p> <p><b>Informal Resolutions</b> 2008 - 28 [Represents 47.5% of all Review files closed.] 2009 - 66 [Represents 54% of all Review files closed] 2010 - 53 [Represents 68% of all Review files closed].</p> <p><b>Public Reports Issued</b> 2008 - 9. 2009 - 13 2010 - 6</p>	<p><b>2009</b> Increase the number of informal resolutions by 5% over 2008.</p> <p><b>2010</b> Increase the number of informal resolutions by 5% over 2009.</p> <p><b>2011</b> Increase the number of informal resolutions by 5% over 2010.</p> <p><b>2012</b> Increase the number of information resolutions by 5% over 2011.</p>	<p>Over half of all Review files closed by informal resolution in 2011 - 2012 through negotiation efforts by Review Office staff resulting in fewer Reviews proceeding to formal Review.</p> <p>Continue to evaluate internal processes and timelines for the Portfolio Officer [formerly Case Review Analyst] and Investigation phases of the Review process.</p> <p>Ensure the formal Review process occurs in a timely fashion when all other avenues of resolution are exhausted.</p>	<p>Providing parties with research, precedents, tests, statutory references and definitions early in the process when the issues have been clearly established, so that all parties to the Review can make informed decisions on the likely outcomes and their position on the issue(s) under Review.</p> <p>Empowering the parties in the Review process to become part of the process; to serve the public in a more timely fashion.</p> <p>Developing respectful and assistive relationships with those within public bodies responsible for administering and making decisions under the governing statutes.</p>

## RIGHT TO PRIVACY: Requests for Review of Privacy Complaints

Outcome	Measure	Base Calendar Year	Target : 2011/2012	Ultimate Target	Strategic Actions
<p>Educating applicants, third Parties, and public bodies regarding the Privacy Review Officer as the statutory oversight body for privacy complaints under the <i>Privacy Review Officer Act</i>.</p> <p>Be open to all requests for a privacy consultation from public bodies.</p> <p>Initiating own motion privacy investigations where appropriate.</p>	<p>Provide comprehensive information to all privacy inquiries and conduct thorough investigations into all Privacy Requests for Review opened.</p> <p>Continue to improve and upgrade website in order to provide more information about access and privacy to the public.</p>	<p><b>2008</b> 2 privacy complaints received. 95 privacy inquiries received. 1 Privacy Public Report issued.</p> <p><b>2009</b> 8 privacy complaints received. 136 privacy inquiries received.</p> <p><b>2010</b> 8 privacy complaints received. 4 informal resolutions. 73 privacy inquiries received. [September 2009 <i>Privacy Review Officer Act</i> proclaimed]</p>	<p>100% of privacy investigations within our jurisdiction are opened and investigated.</p> <p>25% of all requests for a privacy consultation from public bodies responded to positively.</p> <p>100% of all own motion investigations initiated and investigation commenced.</p>	<p>100% of jurisdictional privacy complaints received are opened and investigation commenced.</p> <p>100% of privacy inquiries are answered at Intake and appropriate referrals made or Review files opened.</p> <p>Explore additional ways in which to apply informal resolutions to open privacy complaints.</p>	<p>Pro-actively educate the public with respect to the Privacy Review Officer's statutory privacy oversight mandate.</p>

<b>ACCESS AND PRIVACY: Education and Outreach</b>					
<b>Outcome</b>	<b>Measure</b>	<b>Base Calendar Year</b>	<b>Target : 2011/2012</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
<p>Educate the public about the role of the Review Officer with respect to access and privacy.</p> <p>Provincial recognition that publicizes the Review Officer gained accreditation as an international Data Protection and Privacy office.</p> <p>Explore training needs of local governments.</p> <p>Take steps to prepare for the proclamation of the new <i>Personal Health Information Act</i>.</p>	<p>Plan at least one event to mark Right to Know Week.</p> <p>Hosting or supporting an event to mark Data Privacy Day.</p>	<p>No statutory mandate requirement re: education with respect to the right to access information.</p> <p><u>2009</u> One event hosted for Right to Know Week.</p> <p><u>2010</u> One event hosted and one participated in for Right to Know Week.</p> <p><u>2010</u> First full year of privacy education mandate. One event to mark Data Privacy Day at Dalhousie University.</p>	<p>Continue to mark Right to Know Week in collaboration with all Canadian Commissioners.</p> <p>Host or support at least one Right to Know local event.</p> <p>Attend one international access to information event to be hosted by the Canadian Information Commissioner.</p> <p>Host or support at least one event to mark Data Privacy Day.</p>	<p>75% of requests for public education events responded to affirmatively.</p>	<p>Develop a creative approach to fulfilling the statutory mandate of public education on privacy matters.</p> <p>Develop a strategy to engage the appropriate authorities to urge them to provide training or on-line up-to-date materials with respect to access to information under <i>Part XX</i> of the <i>MGA Act</i>.</p>
	<p>Engage in one educational event at the international level.</p>	<p><u>2010</u> Participated in three consultation meetings with the Department of Health [and Wellness].</p>	<p>Respond positively to consultation requests from the Department of Health and Wellness and other stakeholders.</p>		<p>Continue consultations with the Department of Health and Wellness and other stakeholders pre-proclamation and during implementation.</p>
	<p>Continue to offer to assist to provide training about the Review process for local/municipal public bodies.</p>				
	<p>Initiate or respond to at least two meetings or consultations with health custodians, health officials or other stakeholders.</p>				



**Budget Context for FOIPOP Review Office**

	<b>2010-2011 Estimate</b>	<b>2010-2011 Forecast</b>	<b>2011-2012 Estimate</b>
<b>Program &amp; Service Area</b>	<b>(\$ thousands)</b>	<b>(\$ thousands)</b>	<b>(\$ thousands)</b>
<b>Gross Department Expenses</b>			
<b>Administration</b>	<b>\$ 398</b>	<b>\$ 398</b>	<b>\$522</b>
<b>Total Gross Departmental Expenses</b>	<b>\$ 398</b>	<b>\$ 398</b>	<b>\$522</b>
<b>Additional Information:</b>			
<b>Fees and Other Charges</b>	<b>None</b>	<b>None</b>	<b>None</b>
<b>Ordinary Recoveries</b>	<b>None</b>	<b>None</b>	<b>None</b>
<b>TCA Purchase Requirements</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Provincial Funded Staff (FTEs)</b>	<b>5</b>	<b>5</b>	<b>6</b>