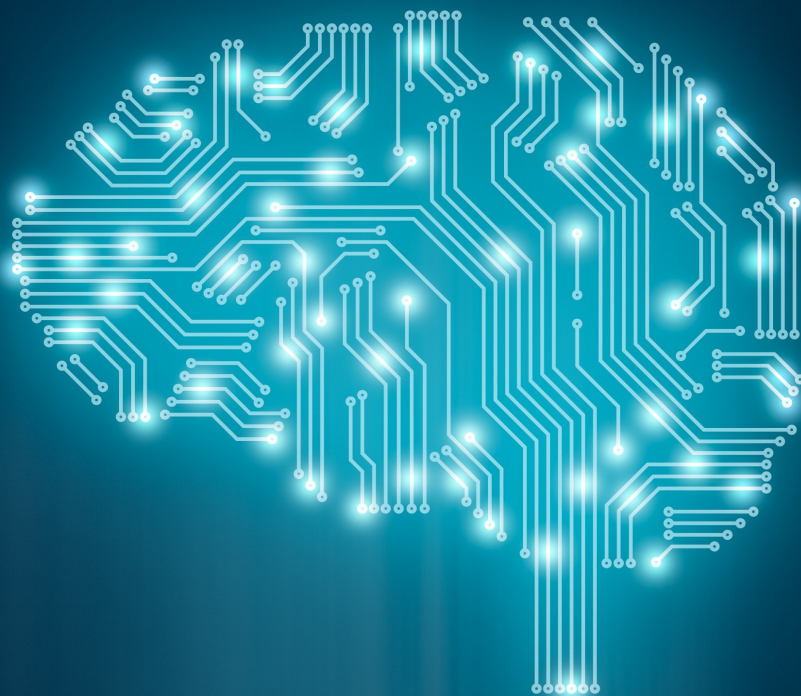


# 25 Years of Access and Privacy Service

2018-2019 Annual Report



Office of the Information &  
Privacy Commissioner for Nova Scotia  
1994 - 2019

## **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

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June 5, 2019

The Honourable Kevin Murphy  
Speaker of the Legislative Assembly  
1<sup>st</sup> Floor, Province House  
PO Box 1617  
Halifax, Nova Scotia B3J 2Y3

Dear Mr. Speaker,

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, 2018 through to March 31, 2019.

Respectfully submitted,

Catherine Tully  
Information and Privacy Commissioner for Nova Scotia



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# *Commissioner's Message*

We live in a digital age. Our lives are increasingly influenced by technology - by those bits and bytes of data used to make decisions about us, to inform us and sometimes, to manipulate us. As modern citizens, we must become managers of our own data and advocates for reliable information. We must demand that governments and organizations respect and protect our personal information.



Our access and privacy laws help ensure governments and organizations are held accountable for their actions. A transparent democracy gives us the information we need to participate actively, to criticize or support our government's decisions knowledgeably and to know we can trust our government to protect our personal information.

As Nova Scotia's Information and Privacy Commissioner, my role is to provide independent oversight of our access and privacy laws. Public bodies, municipalities and health custodians are all subject to oversight by my office.

This is the 25<sup>th</sup> anniversary of this office and a good time to reflect on the role of the Office of the Information and Privacy Commissioner. How do we contribute to citizens' rights to information and privacy? How can we be most effective in our role? What needs to change? What needs to stay the same?

# Commissioner's Message

This report illustrates that since taking over the role of Information and Privacy Commissioner in the fall of 2014, my staff and I have moved this office from being reactive to being lively, engaging and proactive. We answer more than a thousand calls each year from public bodies, health custodians and citizens. We deliver training, create tools and sponsor events all aimed at increasing public knowledge of access and privacy rights.

But the heart of our work is responding to appeals and complaints and investigating privacy breaches. Our Service Plan, included with this Annual Report, provides details on the extraordinary increase in appeals we have received in the past five years and our approach to resolving these matters.

The future of access and privacy rights in Nova Scotia depends on us keeping pace with technology and ensuring that our rights are subject to meaningful and effective oversight. Our current laws were designed for paper records. Without important modernizations to our laws, Nova Scotia is not prepared for the risks and opportunities that the digital age presents. With each passing day, Nova Scotia falls farther behind other provinces and other democracies. It will take courage and determination on the part of politicians and likely a push from the public to bring our access and privacy laws into the 21<sup>st</sup> century.

As the oversight office with a public education mandate, we will continue to go out into our communities, to provide advice and to proactively comment on topics from street checks to smart cities to facial recognition. We will also encourage and support the ongoing public debates that result from our investigations and reports.

*It will take courage and determination on the part of politicians and likely a push from the public to bring our access and privacy laws into the 21<sup>st</sup> century*

I would like to thank all of the people who support and promote access and privacy rights in Nova Scotia. We have highlighted a few of these people in this report in the section we call "Democracy in Action". I also had the great pleasure of interviewing each of the former Information and Privacy Commissioners. Their sage advice will serve as guidance for future Commissioners.

Finally, I would like to thank my staff of access and privacy experts for working so diligently to advance the mandate of this office. I believe Nova Scotians are better informed and their rights are better protected thanks to the vigilance, hard work and dedication of my staff.

Yours sincerely,



Catherine Tully  
Information and Privacy Commissioner  
for Nova Scotia

# THE YEAR IN NUMBERS

---

Total Number of  
New Files

562

We received **235** reviews and complaints and **327** files initiated by public bodies, municipalities and health custodians.

Education &  
Outreach



**1297** Inquiries  
**93** Media Requests  
**47** Speaking Engagements  
**15** Training Sessions  
**9** New Tools



865

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.

173

Access and/or privacy  
consultations with public  
bodies, municipalities and  
health custodians



1108

Individuals attended OIPC-led  
presentations in Nova Scotia in  
2018-2019

# OIPC IN THE COMMUNITY

Privacy Basics in Nova Scotia  
An Introduction

111

students attended OIPC's "Privacy Basics in Nova Scotia" training at Cape Breton University

127  
Tweets



@NSInfoPrivacy

107 attended

Film Screening:  
Data Mining the Deceased



Data Mining the Deceased:  
Film & Discussion

Genealogy is arguably the largest historical enterprise in the world, and one of the largest data mining operations. *Data Mining the Deceased* takes a look at individual and industry stakes in the phenomenon of family history.

Following the screening will be a discussion about current issues of genetic genealogy with Director, Julia Creet; Françoise Baylis, University Research Professor, Dalhousie; and Darryl Leroux, Sociologist of Indigenous DNA Claims, Saint Mary's University.

Sunday, February 3 | 2-5 pm  
Paul O'Regan Hall, Halifax Central Library

93

Media Interviews



Big Data & Privacy Ethics

Speech delivered at Saint Mary's University

70 attended



Open Government

Lessons for Nova Scotia discussion

16 attended



Privacy & Non-Profits

Delivered privacy training tailored specifically for non-profit organizations

15 attended



FOIA Website Investigation

The Commissioner appeared before the Public Accounts Committee regarding her investigation report

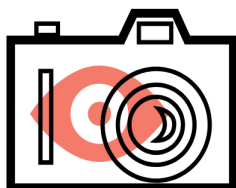


210

people attended our Right to Know Week events, which included a Trivia Night and discussions at universities

# 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

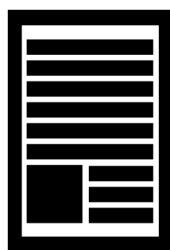
Web: [www.rcmp-grc.gc.ca/en/access-information-and-privacy](http://www.rcmp-grc.gc.ca/en/access-information-and-privacy)

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?

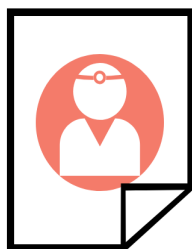


You have the right to request a review of a decision made by a public body, municipality or health custodian in response to your access to information request.

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 Organizations Want to Know

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

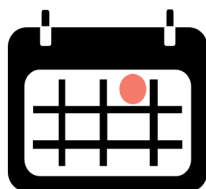


When a public body or municipality receives a request for records it believes might affect the interests of a third party, there is a nine-step notice process involved.

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?

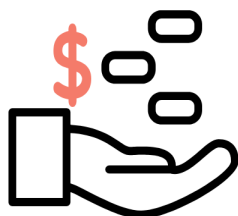


Decisions must be issued within 30 days. There are three circumstances when this timeline can be extended. If more than 60 days is needed, the permission of the Commissioner is required.

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](#). We will be creating a new guidance tool for fees related to FOIPOP and the MGA that will be available on our website later this year.

Our office has created a [PHIA Fee Fact Sheet](#) for more information about the fees that health custodians can charge for access to personal health information.

# What Organizations Want to Know

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



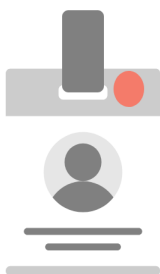
You may only disclose personal information if the law specifically permits the disclosure. There are two possible authorities, but both require that the personal information be necessary for the job at hand. Unless the councillor requesting the information has a direct role in decision-making about enforcement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

Our office has created a training session for bylaw officers. [Contact us](#) to sign up.

We have also 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. Our office has created a privacy training session for non-profit organizations. [Contact us](#) to sign up.

# TOOLS CREATED



New tools created for public bodies, municipalities, health custodians and non-profit organizations in Nova Scotia



PHIA Basics: Protecting Personal Health Information Training Presentation



Chief Privacy Officer Toolkit



PHIA Privacy Impact Assessment Template for Health Custodians



Access & Privacy Essentials for Bylaw Enforcement Officers Training Presentation



Privacy Handbook for Non-Profit Organizations



Privacy Handbook for Universities and Colleges

In 2019-2020 we will be posting these materials and others to our website. Stay tuned!

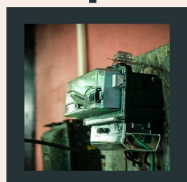


# KEEPING TABS



## FACIAL RECOGNITION SOFTWARE

The provincial government is collecting and storing personal information when issuing drivers' licenses through the use of facial recognition software. Biometrics raise significant privacy issues which the OIPC discussed with the Department of Transportation and Infrastructure Renewal.



## SMART METERS

Through its Customer Connect initiative, Halifax Water is upgrading its meter technology which will enable the meters to communicate wirelessly with Halifax Water. This project involves collecting personal information. The OIPC recommended that Halifax Water conduct a privacy impact assessment of the new project and reviewed the draft.



## STREET CHECKS

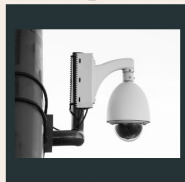
The Commissioner provided comments regarding the privacy implications of street checks to the Nova Scotia Human Rights Commission for the independent report by Dr. Scot Wortley on the issue of street checks.

The OIPC's mandate includes the ability to comment on the privacy implications of proposed projects and programs. The OIPC also has a public education mandate. As a result, throughout 2018-2019, the OIPC followed the implementation of various projects affecting Nova Scotians. Where there appeared to be access to information or privacy issues of concern, the Commissioner reached out to the public bodies or organizations to offer guidance, support and advice. Below are a few examples.



### SMART CITIES

The Commissioner joined with Canada's provincial, territorial and federal privacy commissioners to write to the federal Minister of Infrastructure and Communities in a call to assess privacy implications of this initiative.



### VIDEO SURVEILLANCE

Halifax Regional Police installed video surveillance for the G7 summit. OIPC conducted a site visit to confirm that the cameras were removed following the event and followed up with HRP to ensure that the personal information was used only for the purpose it was collected.



### BODY-WORN CAMERAS

In response to media reports regarding plans to equip Kentville Police Service officers with body-worn cameras the Commissioner wrote to the force to highlight privacy issues and to provide guidance on the use of body-worn cameras.

# 25 Years of Leadership

Six individuals have served as Information and Privacy Commissioners for Nova Scotia (previously known as Review Officers). We interviewed each of the former Commissioners to get their sage advice on the importance of access and privacy rights and on the way forward for the OIPC. Below is a summary of those interviews.



**Linda Garber**

July 1, 1994 - Dec. 31, 1994

## **Why does the right to know matter?**

I have always been a believer in the right to know. There are way too many secrets.

## **Highlights**

I enjoyed the challenge of being Nova Scotia's first Review Officer. I heard appeals from journalists testing out the usefulness of the new law and from individuals trying to get information about themselves.

## **Advice for the Commissioner**

Be responsive to citizens, write short decisions and get them out quickly.



**Darce Fardy**

Jan. 24, 1995 - Jan. 23, 2006

## **Why does the right to know matter?**

It is the basis of democracy, but governments hate it.

## **Highlights**

I saw the law creating a voice for the people. My favourite part of the job was helping people to understand the purpose of the law and encouraging them to use it to hold government to account.

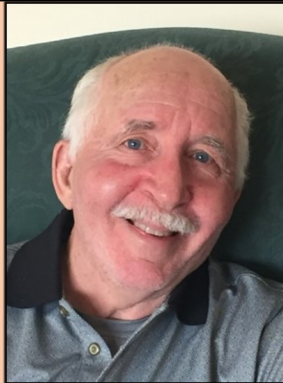
## **Advice for the Commissioner**

Keep it up!

# 25 Years of Leadership

## Dwight Bishop

Jan. 24, 2006 - Feb. 4, 2007



### Why does the right to know matter?

Governments exist for the people. If citizens don't know the facts how can they make informed decisions?

### Highlights

To effectively change and improve a system you must work with people. Helping to form the FOIPOP Steering Committee whose role was to leverage our shared knowledge and to increase consistency among administrators was an important accomplishment during my time.

### Advice for the Commissioner

Always consider the big picture and ask, "How do I make constructive change?"

## Carmen Stuart

Feb. 5, 2014 - Sept. 1, 2014



### Why do access and privacy rights matter?

The right to know is important because citizens need to understand the decisions government makes about them and sometimes, access law is the only way to find out. Privacy is important because it gives you the freedom to be yourself.

**Highlights:** Recruiting and building the team of experts at the OIPC.

## Dulcie McCallum

Feb. 5, 2007 - Feb. 4, 2014



### Why do access and privacy rights matter?

Access to information legislation gives people the right to access information government used to make decisions that affect their lives. You can't Google that. The right to privacy for citizens is more important than ever to our democracy with the explosive impact of the internet.

### Highlights

The systemic report on the Workers' Compensation Board's privacy policies and practices entitled *Privacy Matters* and the creation of the plain language *Citizen's Guide to Access and Privacy Rights in Nova Scotia*.

### Advice for the Commissioner

The role of the Information and Privacy Commissioner is one of the pillars of our democracy. Continue to advocate for the proper statutory appointment mechanism and order-making power for the Commissioner as an Officer of the Legislature.

# Democracy in Action



**Fola Adeleke**

**Freedom of Information Officer, Nova Scotia Health Authority**

**Access & Privacy Experience:**  
10 years between South Africa and Canada

## **Career Milestones**

Through education as an organization, we are making timely decisions where exemptions are the exception. In South Africa, we rolled out a standard for compliance with the access & privacy law and saw an increase from 40% to 90% compliance.

## **Why does the right to know matter?**

We are producing information at a rate that did not previously exist. People are interested in that information.



**Paige MacPherson**

**Atlantic Director, Canadian Taxpayers Federation**

**Access to Information Experience:**  
6+ years between journalism and advocacy

## **Milestones**

The Canadian Taxpayers Federation empowers citizens to engage with FOIPOP. In particular, our organization played a role in achieving greater transparency for two big spending government initiatives in Nova Scotia: 1) the Irving Shipbuilding contract and 2) the Bluenose II Project.

## **Why does the right to know matter?**

Taxpayers must be fully informed voters and citizens.

**Ron Neufeld  
and  
Kathaleen Milan**



## **Milestones**

When we asked your office to review our request for information that was denied to us by the Ministry of Fisheries and Aquaculture you did such a thorough and professional job it gave us the confidence to represent ourselves in front of the Supreme Court of Nova Scotia.

## **Why does the right to know matter?**

Any jurisdiction striving to be a democracy must have the utmost transparency. When so few people have control over taxpayers' money they owe it to us to be an open book in order for us to hold them accountable. The only way for voters to be knowledgeable about where to place their vote is to have this information in advance.

**Maria Lasheras**

**Chief Information Access and Privacy Officer, Department of Internal Services, Government of Nova Scotia**

**Access & Privacy Experience:**  
21 years across government

## **Career Milestones**

Rolling out the *Personal Health Information Act* and the establishment of the Information Access and Privacy Services unit within the Department of Internal Services.

## **Why does the right to know matter?**

I know that this work matters. I grew up in a dictatorship where all information was censored by government. I believe in access to information and the right of people to know what their government does. That is the difference between a dictatorship and a healthy democracy.

## **Why does privacy matter?**

Knowledge is power. Protecting your own personal information is personal power.



# Democracy in Action



**Michael Karanicolas**

**President, Right to Know Coalition of Nova Scotia**

**Access & Privacy Experience:**  
9+ years

## **Career Milestones**

Improvements to Newfoundland and Labrador's Access to Information and Privacy Act in 2014-2015, which transformed the law into one of the most progressive of its kind in the country.

## **Why do access and privacy matter?**

Information is the lifeblood of democracy. Privacy, on the other hand, is a critical social right that allows individuals to control how we engage with the world.

**Dan Pittman**

**Records Management and Quality Control Coordinator, Municipality of Chester**

**Access & Privacy Experience:**  
7+ years

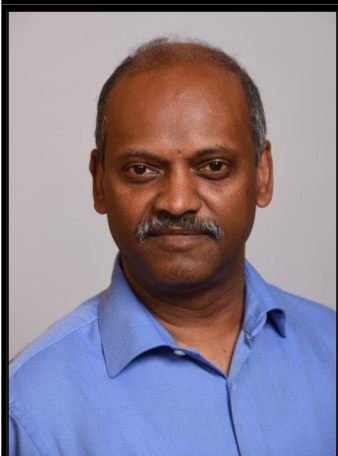


## **Greatest access/privacy success**

Communicating and building trust with applicants and third parties at the outset. Communication makes all the difference, it builds trust.

## **Why does the right to know matter?**

It's all about accountability and transparency; it is at the core of good government, it is critical to it. Government records are the primary source of factual information.



**Dayalan Pillay**

**Information Services Manager, Halifax Water**

**Privacy & Cybersecurity Experience:**  
21 years between Canada and the United States

## **Career Milestones**

Flagged concerns that influenced the adoption of PIIDPA in Nova Scotia. Enhanced compliance with privacy laws while at HRM and Halifax Water, including ensuring HRM's Facebook was in compliance and establishing a PIA unit within Halifax Water.

## **Why does privacy matter?**

Protecting customer privacy is essential to earning customer trust.

**Alison Shea**

**Privacy Officer, Dalhousie University**

**Access & Privacy Experience:**  
10 years



## **Career Milestones**

The success of our PHIA implementation team at the former Capital Health. I gave 40 presentations in the 5 months before PHIA came into effect and my voice has never been the same!

## **Why does privacy matter?**

The Supreme Court of Canada said it best: "Privacy is essential for the well-being of the individual."

# Appendix 1

## Service Plan for the Office of the Information and Privacy Commissioner

April 1, 2019 – March 31, 2020

### 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 bodies<sup>1</sup> 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

Last year we set three goals with seven performance measures for ourselves. We exceeded all but one of our performance measures. Several highlights of this past year were:

- 100% compliance with informal resolution recommendations.
- More than 1100 Nova Scotians attended OIPC training events and presentations.
- Media interest in the OIPC exploded with keen interest in breach investigations involving the Drug Information System and the FOIA Website. In large part due to media interest (93 interview requests), we completed 156 outreach matters although our goal was just 40.
- 79% of review report recommendations were accepted in whole or in part by public bodies.

<sup>1</sup> This 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 not within our control. It is the timeliness of government's responses to access to information requests as reported by the government in its annual report.<sup>2</sup>

### 2017/2018 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 2017/2018. I discussed these statistics in last year's annual report (released November 2018). In summary, Information Access and Privacy (IAP) Services reports that in 2017/2018, government departments responded within 30 days 82% of the time. This is an average performance in comparison with other jurisdictions in Canada. Newfoundland, for example, responded on time 95% of the time.<sup>3</sup> In terms of the likely outcome in 2019/2020, there are some worrying signs that government is taking longer to process access to information requests. There has been a 50% increase in the number of deemed refusal<sup>4</sup> applications filed this year over last year for government departments.

In addition to monitoring government performance, we celebrated Right to Know Week by giving a speech entitled, "1994 Called: It Wants its FOI Law Back" at four universities: Mount Saint Vincent University, Cape Breton University, Acadia University and Dalhousie University. In collaboration with the Centre for Law and Democracy, the OIPC also presented a Right to Know Trivia Night at a local pub as part of our Right to Know Week celebrations.

We also celebrated the first ever Open Government Week by organizing a presentation by Michael Karanicolas who serves as the Independent Open Government Review Researcher for the Open Government Partnership.

A third strategy we used to promote openness and accountability was that we began work on a new guidance series focused on the duty to assist. Under our right to know laws, there is a duty on all public bodies and municipalities to respond openly, accurately and completely to applicants. Thus far we have published three duty to assist guidance documents:

- [Tool #1: Communication with Applicants](#)
- [Tool #2: Conducting an Adequate Search](#)
- [Tool #3: Third Party Notice](#)

<sup>2</sup> The most recent report available for Information Access and Privacy Services is the 2017/2018 Annual Report available at: [https://novascotia.ca/is/reports/IAP\\_Annual\\_Report\\_2017-2018.pdf](https://novascotia.ca/is/reports/IAP_Annual_Report_2017-2018.pdf).

<sup>3</sup> In 2017/2018, British Columbia reported 80% of responses occurred within 30 days, Ontario reported 70%, Saskatchewan reported 76% and Newfoundland reported 95% for an average of 80%.

<sup>4</sup> Deemed refusals are cases where the public body has not responded at all within 30 days and so it is deemed to have refused to provide the information requested.

## 2019/2020 Strategies

This year we plan to promote an open and accountable public sector by focusing events around the 25<sup>th</sup> anniversary of this office and the 25<sup>th</sup> anniversary of the current version of Nova Scotia's access to information law.

We have four projects underway as part of the 25<sup>th</sup> anniversary celebration:

- We plan to continue the duty to assist series.
- We will also publish a series of guides focused on informing the public about their right to know.
- We have included in this Annual Report a series of short profiles entitled, "Democracy in Action". This series highlights the individuals in Nova Scotia who have contributed to our right to know, either as activists, applicants or administrators with public bodies.
- We also interviewed all of the Information and Privacy Commissioners (formerly known as Review Officers) who have provided their insights.

Performance Measure	2017/18	2018/19	2019/20
1. Percentage of requests processed within 30 days by government departments.	Goal = 90% <b>Outcome = 82%</b>	Goal = 90% <b>Outcome = not yet reported</b>	Goal = 90%

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

### 2018/2019 Outcomes

We measure "respect for and protection of privacy" by assessing compliance by public bodies, municipal bodies and health custodians with recommendations they have agreed to during our informal resolution process. Our strategy is to follow up about six months post-investigation to confirm that the recommendations have been implemented. So far, we have maintained a 100% compliance rate. This tells us that the informal resolution strategy can be very effective in finding solutions to privacy complaints.

This year, our second strategy was to deliver privacy training based on feedback we received from access and privacy professionals across the province. As a result, we delivered training on various privacy-related topics including:

- How to Build a Privacy Management Program
- How to Manage a Privacy Breach
- Access and Privacy Essentials for Municipal Administrators
- Privacy for Higher Education
- Privacy Bootcamp for Non-Profits
- Big Data, Privacy and Ethics
- Genealogy, DNA Testing and Privacy (a screening of the film "Data Mining the Deceased")

In total, 1108 Nova Scotians attended training, speeches and events hosted by this office.

We also continued to regularly contribute to the Doctors Nova Scotia publication with articles covering topics such as good records management, teaching privacy to practicum students and security awareness for physicians.

### 2019/2020 Strategies

The best way to improve respect for and protection of privacy among public bodies, municipal bodies and health custodians is to provide training and information so that those tasked with ensuring compliance with privacy laws understand the rules.

- **Deliver privacy training:** Last year we sought regular feedback from access and privacy professionals around the province regarding their training needs. We designed a suite of privacy training and toolkits based on that feedback. This year we will publish a complete list of our training suite, including posting the training materials we developed and use on our website. We will continue to deliver training events based on requests from administrators and we will explore alternate training delivery strategies.
- **Doctors Nova Scotia newsletter:** We will continue to contribute four articles to the Doctors Nova Scotia newsletter this year, covering topics related to doctors, privacy and the rules in the *Personal Health Information Act*.

Performance Measure	2017/18	2018/19	2020/21
2. Percentage of OIPC privacy complaint and breach investigation informal resolution recommendations implemented by affected public bodies and health custodians.	Goal = 85% <b>Outcome = 100%</b>	Goal = 87% <b>Outcome = 100%</b>	Goal = 87%

### Goal 3: Public Awareness of Access and Privacy Rights

#### 2018/2019 Outcomes

More than 1100 people in Nova Scotia attended events where we were either a presenter or the organizer. We gave presentations at four Nova Scotia universities in celebration of Right to Know Week. We advised the Human Rights Commission and Halifax Regional Police on the privacy implications of street checks.

We collaborated with a documentary filmmaker and the Halifax Central Library in presenting a film that discussed the privacy implications of genealogy and DNA testing. One of the most

interesting statistical patterns for the OIPC is that since 2014, the number of media contacts has increased from approximately six<sup>5</sup> in 2013 to 93 in 2018/2019. When media takes interest in access and privacy stories, it helps the public understand their rights and raise awareness of the importance of those rights.

<sup>5</sup> Media statistics were not officially kept until 2015/2016 and so the 2014 number is based on a best estimate by knowledgeable staff.

## 2019/2020 Strategies

- **Privacy curriculum for youth:** Last year we collaborated with our colleagues across the country in developing a privacy curriculum for youth. We plan to publish that material on our website and communicate directly with centres for education about the availability of this information as a teaching tool.
- **Right to Know tools:** We plan to develop and publish a series of tools focused on the public's right to know. These guides will address such topics as how to make an access to information request, how to request a review and how to understand a public body's response to an access to information request.

Performance Measure	2017/18	2018/19	2019/20
3. Total number of individuals who attend OIPC presentations in Nova Scotia.	Goal = 300 Outcome = 1343	Goal = 700 Outcome = 1108	Goal = 700
4. Number of OIPC presentations, media articles and tools. <sup>6</sup>	Goal = 40 Outcome = 109	Goal = 40 Outcome = 156	Goal = 40

## Goal 4: Efficient and Effective OIPC Operations

### 2018/2019 Outcome

We exceeded three of our four performance measures in this area last year. We completed one additional project last year not mentioned in our Service Plan - we developed and published our Code of Ethics.<sup>7</sup>

Two patterns of concern in relation to these performance measures are:

- Government departments continue to be the least likely of all public bodies to fully accept the Commissioner's recommendations. In 2018/2019, departments fully accepted only 40% of recommendations compared with other public bodies, municipal bodies and health custodians who fully accepted 62% of recommendations.

- Government departments are also the least likely to agree to an informal resolution of an access review. The overall informal resolution rate was just 81% because government departments brought the average down by informally resolving just 66% of cases compared to 88% by all other public bodies, municipal bodies and health custodians.

<sup>6</sup> Number of OIPC presentations includes speeches, media articles and tools. In 2018/2019 we had 47 speaking engagements, 93 media requests and 9 new tools created.

<sup>7</sup> Available on our website at: <https://oipc.novascotia.ca/policies-and-procedures>.

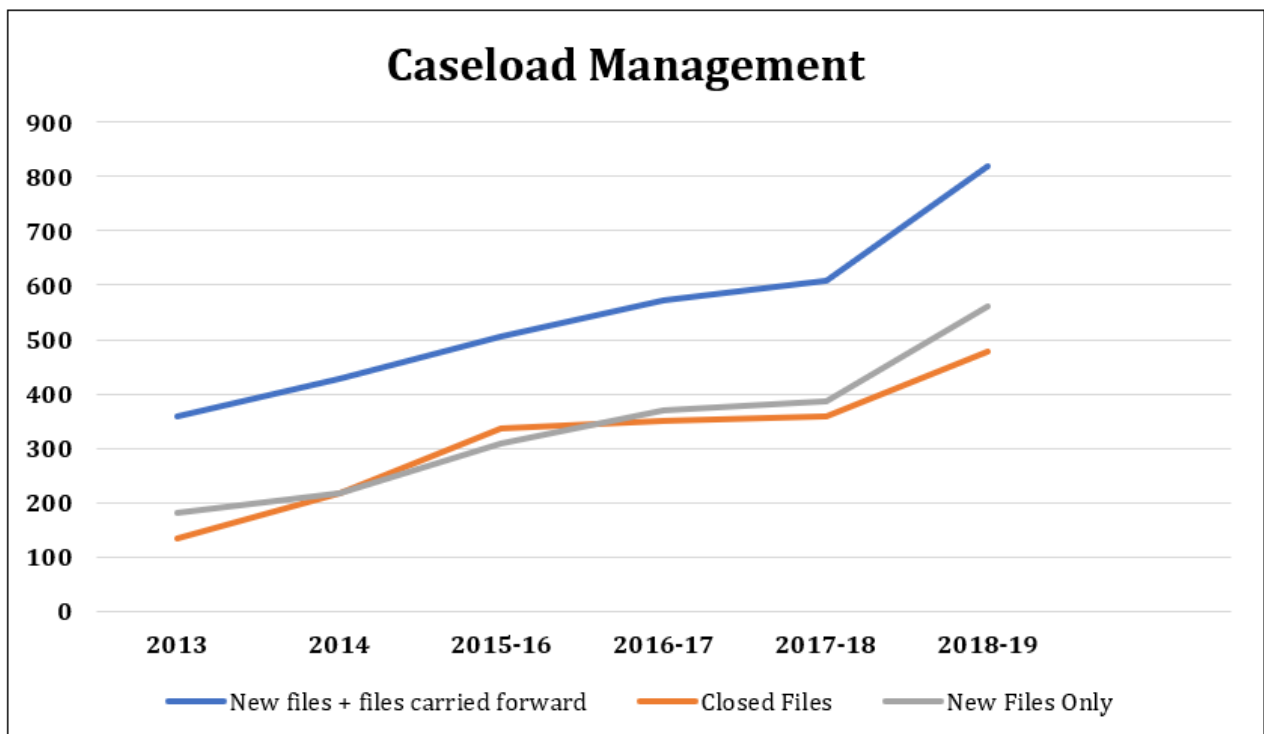
We are an extremely efficient office. Our greatest efficiency achievement has been that we have gone from resolving just 133 files in 2013 to resolving 479 files in 2018/2019. This is an extraordinary 4-fold increase in file resolutions with only one new position added to the office in the past five years.

One of our ongoing challenges is our constantly expanding caseload in the face of static resourcing of the office. The graphic below illustrates the issue. In 2014 when I arrived, there was a six-year backlog of cases - a total of 210 matters. Following the implementation of a new case management system, file review strategies and performance measures, we went from closing just 133 files in 2013 to resolving 479 files this year. If the number of new cases received each year had stayed the same between 2013 and today, the backlog of cases would have been gone in 2016 and we would now be completing reviews within 90 days.

But as the graphic below illustrates, while our staff compliment increased by just one person, and while we exponentially increased the number of matters we resolved in each of the past five years, the number of new matters coming into this office has also increased.

We've essentially stayed on top of new matters but even a small gap between new matters and closed files adds to the backlog pile which is illustrated by the space between the blue line and the orange line. The gap has not narrowed between matters closed and all open files since 2015/2016. We are simply working to our maximum capacity, well beyond what the office was doing in 2013/2014 and we cannot reduce the backlog while keeping up with the exponential increase in new files. As a result, this means that where once we had the backlog down to just over one year, it is now growing again and will likely reach three years in the near future.

While this is not an acceptable level of service, barring an increase in the resources to this office, it is not likely to change in the future and will only get worse if new matters continue to increase.



## 2019/2020 Strategies

Our strategies over the past five years have very successfully increased the efficiency of our office. We are working at and over capacity now. Review and complaint files remain a priority of the office. We will continue to use the systems currently in place that have so successfully helped us to increase the number of files resolved each year. We will also continue to seek additional financial and human resources essential to addressing the backlog.

We will continue to support the professional development of staff through education both in-house and by participating in and attending relevant external training opportunities. This year topics for our in-house book club include:

- Introduction to computer security
- Nova Scotia treaty education
- Use of criminal record checks by public bodies
- Permissionless innovation
- Methodology for assessing right to information implementation in Pakistan

I have decided to retire one performance measure - average days to resolve complaints, because this measure is not an accurate reflection of time taken by this office. Many files are resolved in just a few days by our intake team. Many other files are resolved by investigators within an overall average of 74 days of assignment. But these files sit awaiting assignment for many months. So, the average in measure #7 below is simply that and not an accurate reflection of the time actually taken once we have the resources (people) available to complete the investigation or mediation.

Performance Measure	2017/18	2018/19	2019/20
5. Percentage of access and privacy inquiries that receive a response within two days. <sup>8</sup>	Goal = 98% Outcome = 99%	Goal = 98% Outcome = 99%	Goal = 98%
6. Percentage of reviews ( <i>FOIPOP</i> , <i>MGA</i> and <i>PHIA</i> ) that are resolved informally. <sup>9</sup>	Goal = 85% Outcome = 89%	Goal = 85% Outcome = 81%	Goal = 85%
7. Average number of days to resolve <i>FOIPOP</i> , <i>MGA</i> , <i>PRO</i> , <i>PHIA</i> reviews and complaints.	Goal = 430 days Outcome = 446 days	Goal = 400 days Outcome = 294 days	Measure retired
8. Percentage of review report recommendations accepted by public bodies and municipal bodies.	Goal = 60% Outcome = 67%	Goal = 65% Outcome = 79% <sup>10</sup>	Goal = 65%

<sup>8</sup> 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 2018/2019 we responded to 1280/1297 inquiries within two days.

<sup>9</sup> Mediation, informal resolution, screened and withdrawn cases are included in this category. In 2014, 106 of 154 *FOIPOP*, *MGA* and *PHIA* reviews were resolved informally. In 2018/2019, 112 of 140 *FOIPOP*, *MGA* and *PHIA* reviews were resolved informally. 35/53 (66%) government-related files were resolved informally. Other bodies (including agencies, boards, commissions, universities, municipalities and health custodians) resolved 77/87 (89%) informally.

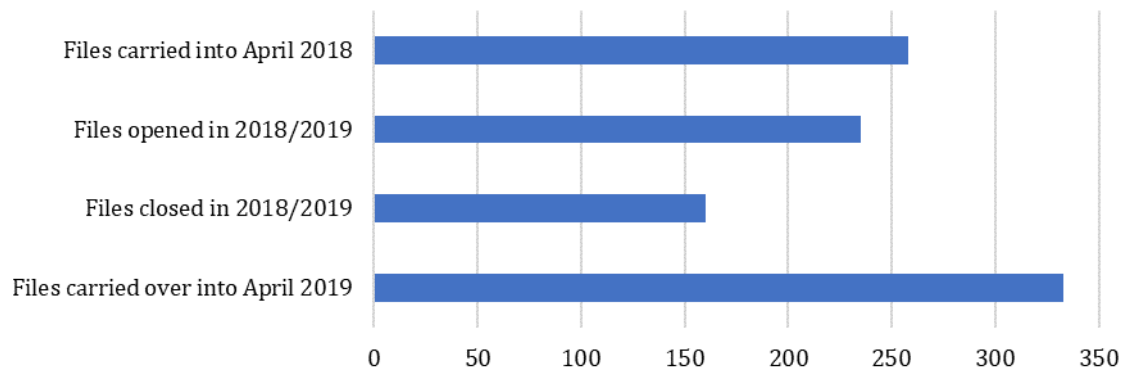
<sup>10</sup> Between April 1, 2018 and March 31, 2019, the Commissioner issued 14 review reports (of which one was privately issued) that related to 25 files. In total, the Commissioner made 38 recommendations of which 18 were accepted, 12 were partially accepted and 8 were rejected.

**Appendix 2**  
**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*

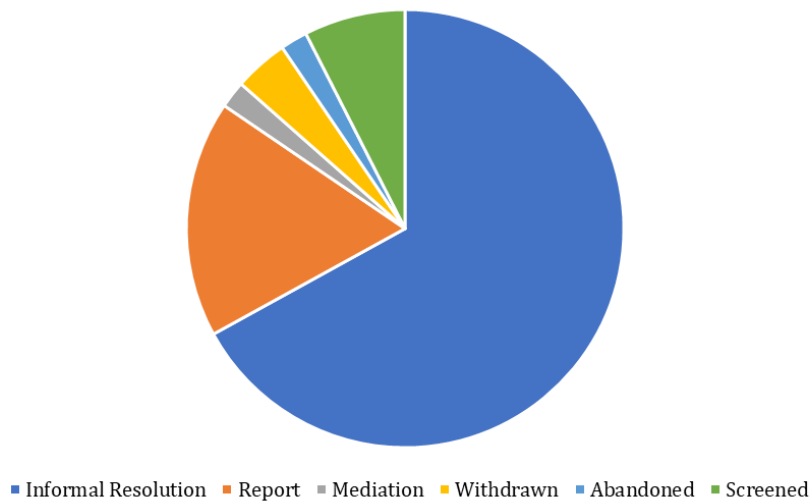
	FOIPOP & MGA OPENED	PHIA OPENED	TOTAL OPENED	FOIPOP & MGA CLOSED	PHIA CLOSED	TOTAL CLOSED
<b>Access and Correction Requests for Review</b>						
Reviews	202	11	213	131	9	140
<b>Privacy Complaints</b>						
Privacy complaints received	9	7	16	7	4	11
Commissioner own-motion	2	4	6	3	6	9
<b>Files Initiated by Public Bodies</b>						
Breach notifications	8	2	10	7	1	8
Privacy impact assessments	5	0	5	2	0	2
Access and privacy consultations	140	33	173	136	34	170
Time extension requests	131	0	131	131	0	131
Late transfer requests	8	0	8	8	0	8
Disclosures without consent to researcher		108	108		108	108
Breaches with no potential for harm or embarrassment		865	865		864	864
Prescribed entity's information practices		0	0		0	0
<b>Outreach and Education</b>						
Inquiries	1135	162	1297	1133	164	1297
Media requests	73	20	93	73	20	93
Speaking engagements	39	10	49	38	9	47
Public education (new)	5	0	5	5	0	5
Staff training and conferences	7	1	8	6	1	7
Tools made available	8	2	10	7	2	9
Committees	6	1	7	6	1	7
Projects	14	9	23	16	14	30
Other <sup>11</sup>	28	2	30	29	2	31
<b>Total</b>	<b>1820</b>	<b>1237</b>	<b>3057</b>	<b>1738</b>	<b>1239</b>	<b>2977</b>

<sup>11</sup> Other includes: submissions on Bills in the House of Assembly; distribution of materials and tools; providing unsolicited advice on public body initiatives and analyzing whether various organizations are a public body.

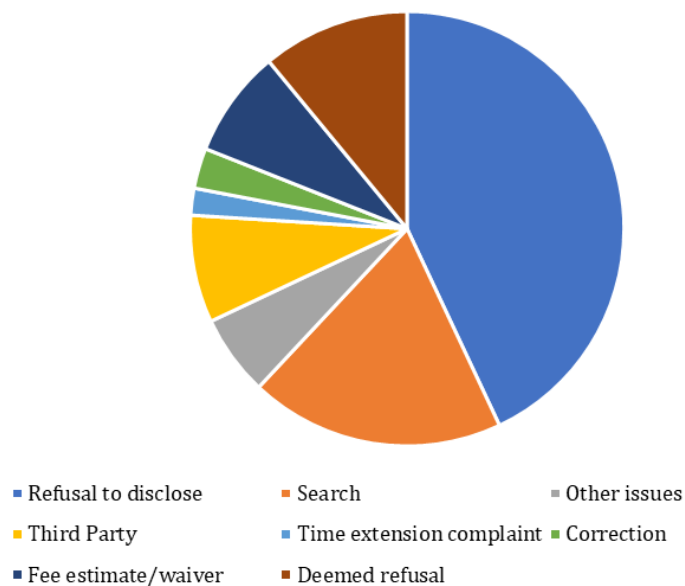
## Management of All Review and Complaint Files



## Outcome for Review and Complaint Files Closed



## Issues Under Review - Access and Correction Reviews



## Appendix 3

### Budget History (for *FOIPOP*, *MGA*, and *PRO*)

Category	Forecast for 2019-2020	Actual for 2018-2019	Actual for 2017-2018
Salaries and Benefits	614,000	602,324	534,880
Travel	3,200	8,971	12,212
Professional/Special Services <sup>12</sup>	45,600	61,418	57,697
Supplies and Services	7,200	9,918	21,652
Other	45,000	53,225	51,458
Adjustments <sup>13</sup>	0	(20,181)	(9,335)
Total Budget Spent	715,000	735,856	677,899
Total Budget Given	715,000	707,000	683,000
% of Budget Spent	100%	104%	99%

<sup>12</sup> This amount includes funding a full-time temporary agency employee to address our staffing needs for a full year.

<sup>13</sup> This reflects transfers of funds for salaries and for external legal service.

There is no budget history to report for *PHIA* as no budget was given. All additional work has been absorbed and reported within the existing budget.



**Appendix 4**  
**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:

<b>Information Required Under Section 18 of the Act</b>	<b>Fiscal Year 2018/2019</b>
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





Left to right: Carmen Stuart, Janet Burt-Gerrans, Karlie Gurski, Catherine Tully, Julie Young, Tara Gault, Mary Kennedy / Missing from photo: Jason Mighton

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