

Office of the Information and Privacy Commissioner for Nova Scotia Report of the Commissioner (Review Officer) David Nurse

WRITTEN REPORT 25-17

August 20, 2025

Commissioner's Written Report on an Application to Disregard Halifax Regional Municipality

Summary:

The Halifax Regional Municipality (the public body) asked the Commissioner to approve its decision to disregard two access requests received under Part XX of the Municipal Government Act (MGA). The public body's responsible officer believes that the requests may be disregarded because they are trivial, frivolous or vexatious (s. 466A(2)(a)), and amount to an abuse of the right to make an access request because they are unduly repetitive and systematic (s. 466A(2)(c)(i)).

I agree with the responsible officer that the requests amount to an abuse of process because they are unduly repetitive and systematic, and I approve the public body's application. The access to information requests may be disregarded. The applicant will be limited to making one access request to the public body every three months for the next two years.

INTRODUCTION:

- [1] The access applicant has submitted 68 access to information requests to the public body between May 24, 2024 and August 6, 2025. The applicant has submitted several different types of requests, including some related to employment competitions conducted by the public body. However, most of the applicant's requests are what I would describe as "keyword searches" and are targeted at specific public body staff. For example, a request might ask for: "emails and attachments sent by [name redacted] to [name redacted] between Jan 17th to Jan 21st, 2025 containing the words "community," "customer" or [Applicant's name redacted.]" I have used this generic example to ensure that no identifying information of the applicant is inadvertently revealed.
- [2] The public body has engaged with the applicant on repeated occasions to assist the applicant in identifying the records they are seeking and has also informed the applicant of their obligation to identify the subject or issue with sufficient particulars to allow staff to identify the responsive records.

ISSUE:

[3] Has the public body established that the applicant's access request meets the requirements of sections 466A(2)(a) and 466A(2)(c)(i) of the MGA?

ANALYSIS:

Legal context and key terms

- [4] Section 466A of the MGA reads:
 - 466A (1) Subject to clause 467(1)(a), the responsible officer to which one or more requests under subsection 466(1) are made may disregard the requests if the applicant does not provide sufficient particulars in accordance with subsection 466(1).
 - (2) The responsible officer may apply to the review officer for approval to disregard one or more requests for access if the responsible officer is of the opinion that
 - (a) the requests are trivial, frivolous or vexatious;
 - (b) the requests are for information already provided to the applicant;
 - (c) the requests amount to an abuse of the right to make a request because they are
 - (i) unduly repetitive or systematic,
 - (ii) excessively broad or incomprehensible, or
 - (iii) otherwise not made in good faith; or
 - (d) responding to the requests would unreasonably interfere with the operations of the municipality and the requests are repetitious or systematic in nature.
- [5] As I have stated repeatedly, an application to disregard is a serious matter as it could have the effect of removing an applicant's express right to seek access to information. The authority to disregard an access request is an "extraordinary remedy" that should only be granted after careful consideration and only in exceptional cases.¹
- [6] The definition of "vexatious" was addressed by the Saskatchewan Information and Privacy Commissioner in Saskatchewan (Parks, Culture and Sport)(Re), 2021 CanLII 3099 (SK IPC), at paragraph 53:

Vexatious means without reasonable or probable cause or excuse (SK OIPC Review Report F-2010-002 at paragraphs [57], [60] and [61]). A request is vexatious when the primary purpose of the request is not to gain access to information but to continually or repeatedly harass a public body in order to obstruct or grind a public body to a standstill. It is usually taken to mean with intent to annoy, harass, embarrass, or cause discomfort...

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¹ BC IPC Order P25-02 [at 16].

[7] In the OIPC's *Guide to Application to Disregard*, we outline some of the relevant factors in determining whether an applicant's access request is part of a pattern of behaviour that amounts to an abuse of the right of access; at page 7:

The following illustrate some of the relevant factors in assessing whether a request is an abuse of the right of access:

- 1. Number of requests whether the number is excessive by reasonable standards.
- 2. Nature and scope of the requests whether they are excessively broad and varied in scope or unusually detailed, or whether they are identical to or similar to previous requests.
- 3. Timing of the requests whether the timing of the requests coincides with some other event, such as an ongoing complaint against the public body or its staff unrelated to the request.
- 4. Purpose of the requests whether they are made for an unreasonable or illegitimate purpose, such as to annoy or harass the public body or to burden the system...."
- [8] The Guide to Application to Disregard goes on to explain the real-world consequences of abusing the right of access; at page 7:

Abuse of the right of access or correction can have serious consequences for the rights of others and for the public interest. By overburdening a public body, misuse by one person can threaten or diminish a legitimate exercise of that same right by others. Such abuse also harms the public interest since it unnecessarily adds to a public body's costs of complying with the Act.

Application to this case

Not clear requests are vexatious

- [9] In the present case, it is difficult for me to ascertain the motives of the applicant. In their submissions to the OIPC, the applicant argued that, from their position, the requests were not vexatious or an abuse of process:
 - ...what is vexatious to one person is useful information to another person. I undertake my investigations in a systematic and thorough manner and in so doing, I retrieve invaluable information. This information may be deemed useless or trivial to some, this is not the case from my vantage point.
- [10] There is no specific evidence before me that the applicant has a vendetta against any staff of the public body. However, the repeated targeting of specific staff, in certain instances using keywords that do not appear to be directly related in any way to the day-to-day work of the staff in question, is concerning. Submitting 68 broadly worded requests in a little over a year also may suggest an intent to "to obstruct or grind a public body to a standstill."

[11] However, based on the limited information before me, I am not persuaded that the requests are trivial, frivolous or vexatious. I do not approve the application to disregard the access requests under s. 466A(2)(a).

Requests may be disregarded as an abuse of the right of access

- [12] I have decided to approve the responsible officer's application to disregard the requests as they are unduly repetitive and systematic and amount to an abuse of the right of access.
- [13] The applicant has engaged in a pattern of unduly repetitive and systematic access requests. Their requests have targeted specific staff of the public body with similar "keyword searches" for specific time periods. The requests often overlap, and the same "keywords" are referenced again and again. As the OIPC Guide to Application to Disregard stated, we have to consider if the number of requests is "excessive by reasonable standards." I am satisfied that 68 requests in a roughly 15-month period is excessive by reasonable standards.
- [14] While the applicant may hold a sincere belief that their research yields valuable results, I would offer the same cautionary comments as I did in ATD25-04:

In closing, I would caution the applicant that FOIPOP is not intended as a tool of "information warfare," and I encourage the applicant to be reasonable and to exercise common sense in using their remaining right to make access requests to other public bodies. I am concerned that the applicant does not appear to appreciate, or take seriously, the broader impact of their conduct on Nova Scotia public bodies, or on other applicants with legitimate access requests.

CONCLUSION:

- [15] I approve the application to disregard the two access requests; the requests are unduly repetitive and systematic and amount to an abuse of the right of access. The applicant will be limited to making one access request to the public body every three months for the two years following this decision.
- [16] Please inform the applicant of my decision in accordance with s. 466E of the MGA.

August 20, 2025

David Nurse

Information and Privacy Commissioner for Nova Scotia

OIPC file: 25-00460

² British Columbia (Provincial Health Services Authority) (Re), 2007 CanLII 42406 (BC IPC), https://canlii.ca/t/1t68v, retrieved on 2025-04-16.