



FOIPOP Review: Municipalities and Villages

September 2024



Overview

- Information and privacy framework
- Why a review of the FOIPOP Act?
- Review approach
- Potential changes
- Open forum

Access to information and privacy in NS

- FOIPOP Act cornerstone of NS framework
 - Part XX of Municipal Government Act (MGA)
 - Halifax Charter
- Other elements of NS' framework:
 - Privacy Review Officer Act (PRO Act)
 - Personal Information International Disclosure Act (PIIDPA)
- Personal Health Information Act (PHIA) not part of Review

Access to information and privacy in NS

- FOI (access) and POP (privacy)
- Office of the Information and Privacy Commissioner (OIPC) oversees access and privacy for departments and public bodies, but only oversees access for municipalities
- Privacy provisions apply to municipalities without oversight
- OIPC can make non-binding recommendations

Why are we looking at changes?

- FOIPOP Act last updated 1999
- NS' privacy provisions are dated; most aspects of privacy protection carried out by policy/procedure rather than legal obligation
- Recommendations of current/former Information and Privacy Commissioners
- Opportunity to make administrative updates

Review Approach

- Provincial working group of senior representatives from Departments of Justice, Service NS, and Cyber Security and Digital Solutions
- Questionnaires for government departments, municipalities and villages, other public bodies
- Targeted engagement with municipalities and villages, OIPC, media, caucus offices
- Recommended amendments for 2025

Potential amendments from OIPC recommendations

Consolidation: privacy management & oversight

- Consolidate FOIPOP Act/MGA Part XX, PIIDPA, PRO into one new Act and repeal old legislation; amend Halifax Charter
- Enhanced privacy protection across the province
- OIPC privacy oversight of municipalities/villages:
 - privacy complaints relating to municipalities/villages would go to OIPC if applicant unsatisfied with response
 - privacy breach reporting by municipalities/villages to OIPC
 - privacy policies and programs required at municipal level

Consolidation, privacy management & oversight: Questions

- *What are your thoughts on consolidation?*
- *What benefits do you see in establishing privacy oversight of municipalities? What other implications would you anticipate?*
- *Do you have a privacy policy now? A designated person responsible for privacy management now?*
- *What kind of supports do you think you'd need going forward in establishing or enhancing your privacy programs and policies?*

OIPC and binding recommendations

- OIPC can only make recommendations.
- OIPC has recommended it be given power to make binding recommendations or orders.
- 7 jurisdictions (NL, PEI, ON, QC, AB, BC, NWT) have Commissioners with order making power:
 - Only NL has “reverse onus model”
 - Others have Commissioner decisions that may be filed at court and have same effect as court judgments
 - ON Commissioner has order making power limited to access matters but ON recently introduced Bill 194 which would permit orders on privacy side

OIPC and binding recommendations

- What would this look like?
 - Must accept/implement recommendations, (e.g., release info) or challenge in court
 - OIPC decisions would establish precedent
 - Court decisions would establish precedent
 - Potential implications for operations, resources, time, public perception

OIPC and binding recommendations: Questions

- *What are your thoughts about this kind of authority being provided to the Commissioner?*
- *What potential impacts would you anticipate Commissioner's orders or binding recommendations having on your municipality? Positive? Negative?*

Timeline for correction requests

- OIPC has recommended public bodies be required to respond to correction requests within 30 days

Timeline: Questions

- *What are your thoughts on having a timeline for correction request responses?*
- *How often does your municipality receive such requests?*
- *Is 30 days appropriate?*

Fees

- OIPC has recommended:
 - \$5 fee be eliminated
 - First 5 hours search be free
 - No fees for severing records
 - Add a timeline for public bodies responding to fee waiver requests
 - Refund fees if decisions are issued late

Fees: Questions

- *What are your thoughts on the OIPC's recommendations?*
- *What impacts, if any, would you expect?*
 - \$5 fee be eliminated
 - First 5 hours search be free
 - No fees for severing records
 - Add a timeline for responding to fee waiver requests
 - Refund fees if decisions are issued late

Open Forum:
additional comments or
questions?

Contact us at:

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