

# PRINCE EDWARD ISLAND LEGISLATIVE ASSEMBLY



Speaker: Hon. Francis (Buck) Watts

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## Standing Committee on Public Accounts

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**DATE OF HEARING:** 18 JANUARY 2017

**MEETING STATUS:** PUBLIC

**LOCATION:** COMMITTEE ROOM, J. ANGUS MACLEAN BUILDING, CHARLOTTETOWN

**SUBJECT:** AUDITOR GENERAL'S REPORT ON E-GAMING

**COMMITTEE:**

James Aylward, MLA Stratford-Kinlock [Chair]  
Jordan Brown, MLA Charlottetown-Brighton [Vice-chair]  
Dr. Peter Bevan-Baker, Leader of the Third Party, MLA Kellys Cross-Cumberland  
Darlene Compton, MLA Belfast-Murray River  
Bush Dumville, MLA West Royalty-Springvale  
Sonny Gallant, MLA Evangeline-Miscouche  
Chris Palmer, MLA Summerside-Wilmot  
Hal Perry, Tignish-Palmer Road

**COMMITTEE MEMBERS ABSENT:**

none

**MEMBERS IN ATTENDANCE:**

Jamie Fox, Leader of the Opposition, MLA Borden-Kinkora  
Matthew MacKay, MLA Kensington-Malpeque  
Steven Myers, MLA Georgetown-St. Peters  
Brad Trivers, MLA Rustico-Emerald

**GUESTS:**

Auditor General's Office (Jennifer Bowness, Jane MacAdam)

**STAFF:**

Marian Johnston, Clerk Assistant and Clerk of Committees

Edited by Parliamentary Publications and Services

The Committee met at 10:00 a.m.

**Chair (Aylward):** Ladies and gentlemen, I would like to call this meeting to order and welcome everyone back. In particular, I would like to welcome our returning clerk, Marian Johnston. Unfortunately, Ryan wasn't able to be here today just due to his daughter is not well so he is at home with her and there is, as we know, a touch of the flu going around.

Just before I call for an adoption of the agenda, just a couple of real quick housekeeping items. The first one, I just want to thank the Auditor General for the memorandum that you provided with outstanding asks. I was going to ask for an update today, so I appreciate that information. I was also going to ask if you could just give us a quick update on where you are at with the review of the box of material that you received from McInnes Copper. I think it was hand-delivered back around November the 8<sup>th</sup>.

**Jane MacAdam:** Right now we're preparing for our annual report for 2017, so that's our priority. We really haven't done much of any work on the box of information. We see that as an extension of this assignment but separate; we'll have to develop an objective for the next phase and I wouldn't be comfortable speaking to any of the material because we really haven't reviewed it in any kind of depth at all.

**Chair:** Thank you.

One more item just before we move onto the adoption of the agenda. Just as I stated last week as well, the staff have requested that if you do have your phone on the desk make sure it's on silence and not vibrate because vibrate is being picked up by the microphones and it's very hard for those individuals to do the tremendous work that they faithfully always do. I thank you for that cooperation.

If I could ask for a motion for the adoption of the agenda?

**Mr. Palmer:** (Indistinct)

**Chair:** Thank you, Chris.

For my records, moving onto number three which again is the continuation of the review of the Auditor General's Special Assignment: Government Involvement with the E-gaming Initiative and Financial Services Platform. We were just finishing up section 6, entitled Conflict of Interest. I don't know if we actually got to the section for requests of information there.

Jane.

**Jane MacAdam:** I'd like to provide a clarification on an issue that was discussed at the prior meeting, if I could, before we get started.

**Chair:** Certainly, yes.

**Jane MacAdam:** After reading the transcripts of the last meeting I believe there may be some confusion between CMT and Rev Tech. I want to provide some clarification for the record and this is related to the investors and the amount of capital that was raised.

At that meeting there was discussion about the fact that Chris LeClair's spouse invested in Rev Tech. I was asked if there were any other people interviewed by my office that were investors in Rev Tech.

Our report in paragraph 6.17 states that: We were unable to substantiate Rev Tech's investor list. For this reason, I am not certain how many individuals that we interviewed were investors in Rev Tech. However, I want to clarify that I am aware that another individual interviewed by my office was an investor in Rev Tech. I thought that needed some clarification.

I also want to clarify that the reference in paragraph 6.16 to: \$700,000 in capital raised from 36 Islanders – that refers to the sale of CMT convertible debentures and not debentures of Rev Tech.

We do not have information on the value of Rev Tech debentures sold. There was some confusion between those two companies, I felt, when I went back and looked at the transcript.

**Chair:** With regards to that then, can you confirm who the other individual was that

you interviewed as a witness that also had investment in Rev Tech?

**Jane MacAdam:** That would be Paul Jenkins.

**Chair:** Thank you.

Any questions with regards to that update from the Auditor General?

Again, to just finish up with section 6; was there any remaining questions before we (Indistinct) – Darlene?

**Ms. Compton:** Just back to the 17 senior executives who you audited for disclosure, can you read the names of those 17 people who were audited. There were a few that their disclosures were –

**Jane MacAdam:** I did provide that to the committee today. I'm not sure if everybody has it.

**Ms. Compton:** I apologize; I didn't read that through yet.

**Clerk Assistant and Clerk of Committees:** Committee members, this morning I just at the beginning of the meeting received this envelope. I can arrange to have copies made right now and distributed. There are copies made; this is wonderful.

**Chair:** Efficiency at its best.

**Clerk Assistant and Clerk of Committees:** I will pass them out now so that committee members will have them in front of you. I'll make additional copies for the guests.

For the guests at the table, they're making copies for you right now and as soon as they're ready, I'll distribute them.

**Chair:** Did you have anything else, Darlene?

**Ms. Compton:** Yes. I'm just wondering, of the disclosures that were requested, can you fill us in on what those disclosures were, what they entailed as far as –

**Jane MacAdam:** In accordance with the policy there can be a declaration or a disclosure. We talk about that in paragraph 6.8: A declaration statement provides a

certification from the employee that they are not aware of any potential conflict and they have no assets, interests, or external employment required to be reported under the policy. A disclosure statement would be required if the employee or the employee's spouse or dependent children had any real or personal property, outside employment and/or community activities that may cause a potential conflict.

When we were doing our work we looked for one or the other of these statements to be filed for these employees. In addition, we expected extra statements to be filed if there was a change in circumstance.

**Ms. Compton:** Chair?

**Chair:** Darlene.

**Ms. Compton:** I'm just seeing here that the three executive level employees who did not have their disclosures up to date were Allan Campbell, Chris LeClair and Dan Campbell, and the non-executive ones were Sebastian Manago, Brad Mix and Bruce Johnson.

**Jane MacAdam:** No. They actually had (Indistinct) –

**Ms. Compton:** Oh they did?

**Jane MacAdam:** Yes.

**Ms. Compton:** Sorry.

The opposite of that, how's that? Those were the three that did.

**Chair:** Anything further, Darlene?

**Ms. Compton:** No, until we can look through this I think we'll carry on.

**Chair:** Steven.

**Mr. Myers:** I just had a question that was on the Rev Tech investment for Jenkins. Do you know how much he had invested?

**Jane MacAdam:** I'm not sure.

**Mr. Myers:** Okay.

**Chair:** Next I had Bush.

**Mr. Dumville:** Maybe Darlene was asking this – I was just looking at all statements completed, yes or no? All statements meaning –

**Jane MacAdam:** Pardon?

**Mr. Dumville:** All statements as an individual or all statements as a group?

**Jane MacAdam:** All statements as an individual.

**Mr. Dumville:** How many would they be?

**Jane MacAdam:** In total we expected 46 disclosures for the 17 executive level employees and we only received 10.

**Mr. Dumville:** Thank you.

**Chair:** Next, I have Chris on the list.

**Mr. Palmer:** Thank you, Chair.

Jane, who would help these folks to fill out those disclosures? Is there somebody that is responsible to kind of assist them with that? Or, is that just something on your first day of work that is on your desk and you're just expected to fill them out? Do you know how that process works?

**Jane MacAdam:** There was a policy at the time. You would look at the policy and fill out the form, I guess. I don't know that there was a particular person assigned, but I'm sure if they had questions the Public Service Commission, I believe, was responsible for the administration of that policy as well and Executive Council Office would be involved as well.

**Mr. Palmer:** Okay.

**Jane MacAdam:** It depends on the employee too.

**Mr. Palmer:** Do you have a recommendation in here that maybe that should be a more formalized process and somebody that can kind of help them with that? I can speak to my own experience with this. I had the conflict of interest commissioner help me with my disclosures to make sure that I understood so that I didn't just get to work the first day and

there's a pile of papers there and I'm expected to know what to do with them.

Is there a recommendation in here that we can strengthen that policy so that there are supports, so we make sure that this doesn't happen again, which is ultimately why we're here. Is there a recommendation, or is that something that if you haven't made it, maybe our committee makes that?

**Jane MacAdam:** We didn't have a specific finding that because there was no assistance provided that's why they weren't filled out. Our finding is simply that they just were not completed in accordance with the policy.

We do state in that section that there is a new policy now and that policy has been – the new policy has been enhanced in terms of the requirement for annual disclosures and also there is a requirement to meet with the ethics commissioner annually.

**Mr. Palmer:** Right, Chair?

You had said – that's right. That reminds me that last time you had said that everybody now has completed the disclosures. So the new policy is working and the disclosures are completed. Did you tell us that last time?

**Jane MacAdam:** We did look to see whether or not the disclosures under the new policy were on file and as of March 31<sup>st</sup>, 2016, all the required disclosures were on file with the ethics commissioner.

**Mr. Palmer:** Thank you.

**Chair:** Next, I have Darlene on the list.

**Ms. Compton:** Just to follow up on that. It's my understanding that basically it's up to the minister to ensure that this is being done for each department, right?

**Jane MacAdam:** The Public Service Commission is responsible for administration of this – it's a Treasury Board policy but the Public Service Commission is involved with this policy.

**Ms. Compton:** (Indistinct)

**Chair:** Go ahead.

**Ms. Compton:** Just on that, I know there's a policy in place, but is there actually a procedure that each department is expected to follow? It's fine to say there is a policy in place, but we know very well that policies aren't always followed. Is there also procedure that is recommended for each department and would those be different per department?

**Jane MacAdam:** We didn't get down to that level. We looked at the Treasury Board policy and the requirements in the Treasury Board policy and under that policy there are rules outlined for deputy-level employees and there are rules outlined for other employees. All employees in the public service fell under that policy with regards to conflict of interest.

**Chair:** Anything else?

**Ms. Compton:** Just on that note, we do have a policy in place, I understand that. How do we ensure that is followed? This is what we keep coming back to on every issue, is there are policies and rules in place, but is there a procedure in place with each department that is recognized and is followed? Or is it left up to one person for the whole government system? Who is following up on this, I guess, is my question. Or do you know?

**Jane MacAdam:** Based on our findings it wasn't being monitored.

**Ms. Compton:** At all?

**Jane MacAdam:** It wasn't being monitored because it was allowed to – there was a lot of non-compliance with the policy. The policy that existed at the time said that the disclosures of deputy head employees are to be made to the CEO of the Public Service Commission. Those weren't being done. There could be a procedure put in place that whoever is supposed to receive those disclosures – maybe there's a mechanism or a check to ensure that on a regular basis they follow up and ensure that those disclosures are made.

There is a new policy now so I'm not sure what that new policy states in terms of who the disclosures go to. If they go to the ethics commissioner and she meets with staff on an annual basis, I would assume that she's monitoring the situation currently. That's

what we found. We found that as of March 31<sup>st</sup>, 2016, all the required disclosures were on file.

**Chair:** Anything further, Darlene?

**Ms. Compton:** No, that's fine.

**Chair:** I had Matt on the list next.

**Mr. MacKay:** Thank you, Chair.

I'm just curious how many years these individuals that were in government had no disclosures? Some of these people have been in government 15-20 years.

**Jane MacAdam:** Our scope period started in July of 2009, so we didn't go back any further than that. We looked for one to be in place during their scope period. Or not one, but all required statements in accordance with the policy to be on file during the scope period, which was July of 2009 to March 31<sup>st</sup>, 2015.

**Mr. MacKay:** I guess my concern would be that some of these individuals have been there 15 to 20 years without any disclosures in place. If you have been in government 20 years and having had it done at the latter part of it, what happened to the 15 years prior to that? It might be something that we should check into further.

Thank you.

**Jane MacAdam:** Some of these individuals did indicate that they recall preparing a disclosure statement, but we weren't provided with – for some of these individuals we weren't provided with the statement so it is possible some of them could have been misfiled or – I'm just indicating that's the information we were provided with.

**Chair:** Next, I had Sonny Gallant on the list.

**Mr. Gallant:** Thank you, Chair.

Just to kind of go back to what Darlene had asked, we here, as MLAs, our procedure for conflicts and we have to deal with the conflicts of interest commissioner and when we have to go we're notified. I'm just wondering if I got the answer from you, you say the CEO of the Public Service

Commission and the ethics commissioner look after that now? How could we find out exactly what's happening? Are they notifying these 17 people now on an annual basis to have a review?

**Jane MacAdam:** The policy at the time when we did our audit was the old policy. The old policy required deputy head employees to give their disclosures to the CEO of the Public Service Commission. Clearly that wasn't happening because we found a lot of non-compliance.

Now, under the new policy there's the ethics commissioner so all of the disclosures go to her and there's also a procedure where she meets with people on an annual basis. So those new enhanced procedures, to me, strengthen the policy that was there. Based on the work that we did there was full compliance at March 31<sup>st</sup>, 2016, so there have been improvements made in this area.

**Mr. Gallant:** Thank you.

**Chair:** Brad Trivers.

**Mr. Trivers:** Thank you, Chair.

As noted before, there are no recommendations made in the conflict of interest section in your report. By the sounds of things today, you've made some verbal recommendations here at the meeting; do you think you need to add some formal recommendations around conflict of interest situations? For example, you mentioned about rules around monitoring these sorts of things.

**Jane MacAdam:** Under the new policy the ethics commissioner is monitoring. That's why we didn't have a recommendation.

**Mr. Trivers:** Do you feel you need any additional recommendations for this section?

**Jane MacAdam:** No.

**Chair:** Any further questions on section 6, before we move on to formal requests for information?

**Mr. J. Brown:** Didn't we do the requests last (Indistinct)?

**Chair:** No, I don't think so. I think we were just finishing up –

**Ms. Compton:** (Indistinct)

**Chair:** But we didn't complete that.

Are there any additional requests from – Darlene.

**Ms. Compton:** I apologize if I've already made these but I don't recall doing that; a copy of the May 2011 documents, the business plan, the meetings minutes and any emails of the presentation of marrying the egaming and financial services platform project together by Chris LeClair. We know that all of these schemes – for a better word – were rolled out one after another all involving the same people and the same company. Any documentation that we've got by Chris LeClair about CMT and Simplex.

**Jane MacAdam:** Could you clarify exactly what –

**Ms. Compton:** Just on if there is any documentation going from, okay, the egaming file didn't work so now we're going to roll it into a financial services platform, or the loyalty card. Was there any documentation showing that: Okay, this didn't work so we're going to go to this? Or, was there any communication between – regarding CMT and Simplex on the connection of all of those different schemes?

**Jane MacAdam:** I can look and see if there is documentation but I'm not really sure. We have reference, an email – if we look at exhibit 5.1 on page 30, we say: That the former Deputy Minister receives an e-mail from Simplex regarding a plan for a financial services platform with or without E-gaming. I'm just not really –

**Ms. Compton:** I'm just wondering because we have the same people from government and the same companies involved in all of these prospective wonderful deals for the province, was there any communication from: Okay, this isn't going to work so we're going to go to something else. Was there any email or any documentation or any communication at all that you have record of that that was –

**Jane MacAdam:** We can have a look.

**Chair:** Steven.

**Mr. Myers:** Just on that Chair, in 6.15 you explicitly talked about it. I guess that information if you don't have it would be the information that I assume Darlene is talking about.

**Chair:** Page 36.

**Jane MacAdam:** That's referenced in the timeline as well.

**Mr. Myers:** I guess just to clarify, that's probably what you're looking for, if that's where this talk is about marrying them together.

**Jane MacAdam:** We say here the egaming working group is introduced to CMT, FMT and Simplex by the former chief of staff. That's in exhibit 3.1 of the timeline. We'll see what we have but it may be that McInnes Cooper has more information on that too.

**Chair:** Darlene.

**Ms. Compton:** I think it's very interesting that we have the same players from government involved with the same companies regarding a number of failed attempts at some kind of revenue-generating ideas.

Also, a copy of Chris LeClair's wife's investment in Rev Tech, if you have a copy of a letter of what her investment was.

**Jane MacAdam:** I'm not sure if I'll be able to provide that.

**Mr. J. Brown:** What would you mean by that?

**Ms. Compton:** Just a record of what her investment was in Rev Tech.

**Mr. J. Brown:** Like a copy of – and I ask this question (Indistinct) go. There was reference, I think, earlier to it being – are you looking for a signed convertible debenture? Or, are you looking for a register from the company that says –

**Ms. Compton:** I think any proof of how big her investment was and how much of a player she was in that investment. I think it seems pertinent –

**Jane MacAdam:** We say in 6.17 it was \$1,500.

**Ms. Compton:** Do we have a copy of that?

**Jane MacAdam:** I do.

**Ms. Compton:** Something we can get. A copy of the MOU between TBT and Innovation PEI; I'm not sure if we requested that or not.

**Jane MacAdam:** I think that's in the material that I sent back, that it should be requested from Innovation PEI.

**Ms. Compton:** A copy of testimony or a request by senior government officials from Melissa MacEachern to step away from conflicts. Any copy you have or any documentation you have.

**Jane MacAdam:** That would be interview notes and I can't provide those.

**Ms. Compton:** It was stated – was it Melissa who said she voluntarily stepped away but you heard otherwise; had testament to otherwise. Copies of all three contracts signed between PEI government and Tracey Cutcliffe.

**Jane MacAdam:** I've already requested those from Innovation PEI and Intergovernmental Affairs.

**Ms. Compton:** Just not sure what we covered and what we didn't.

**Chair:** I had Brad Trivers here as well.

**Mr. Trivers:** Thank you, Chair.

Mi'kmaq Confederacy, I mean they were of course the original organization that was looking into the egaming initiatives as it says in the timeline. That was really a regulatory framework for egaming, hopefully for all of Canada they were looking at. But then later on we get into the loyalty card program and the financial services platform. As you say on page 30 it talks about a financial services platform with

or without egaming. Again, in 6.15, you talk about how the platform would work for egaming and the technical requirements it would need to operate.

I just wanted to clarify the Mi'kmaq Confederacy's role because it seems to me, really, they were involved when it came to the original egaming initiative in bringing that forward. But when the financial services platform came around and the loyalty card programs, at that point really even though we as a whole and the media call it egaming, at that point their portion, that initiative that they had originally started, they'd kind of withdrawn. I wanted to clarify if that's your opinion as well.

**Jane MacAdam:** In the ones with the timeline, we say that government stepped away February 24<sup>th</sup>, 2012, is when basically they made a decision to stop egaming. We know that from March – like there was a period after February where the confederacy and the local law firm continued to meet.

**Chair:** Brad.

**Mr. Trivers:** Do you believe they were continuing to meet with regards to anything to do with the loyalty card program or the financial services platform? Or, was this just simply talking about the legal matters and of course the loans that were outstanding to them from the original egaming initiative?

**Jane MacAdam:** My understanding it was still egaming.

**Mr. Trivers:** Thank you. I just wanted to clarify that because sometimes I feel that the Mi'kmaq Confederacy is seen as implicit in the loyalty card program and the financial services platform, when really, it's my understanding it was the egaming initiative, the original one, that was really their main interest in this whole matter.

**Chair:** Steven Myers.

Again, folks, I just want to remind everybody, we've passed the time allotment for asking questions. We have moved on to just finishing up any formal requests of information.

Steven Myers was on the list.

**Mr. Myers:** Thank you.

Part of just to follow up what I already said about to Darlene's asking what conversation we had about it. The sentence reads: In May 2011, the former chief of staff and these individuals presented the opportunity of marrying the two projects.

When we're looking for documents what was presented, was there an official presentation? Was there a letter? Was there an email? Was it a meeting? Is there meeting notes? Is there a meeting email that says: Here, we're having this meeting? Those are the types of things that are really important because you come up with that information somehow.

**Jane MacAdam:** There would have been invoices that were submitted by the law firm to the confederacy and those invoices were submitted by the confederacy to IIDI to drawdown the loan funds. There were references in those invoices and there were interviews that we conducted so that's where we got that information.

**Mr. Myers:** Just to re-clarify, outside of the interview notes which you can't give us, you do have documents that –

**Jane MacAdam:** These are invoices and those have been requested from – I put that on the response back to the committee that those invoices should be requested from IIDI.

**Mr. Myers:** Thank you.

**Chair:** Any further questions? Sorry, not questions, but requests for information on this section?

Thank you very much. Moving on, we will begin with section 7, which is on Records Management.

I did want to raise one quick question or give someone an opportunity here: Hal Perry, you were minister responsible for records management when you were minister of education during the period of time that the Auditor General was doing her work. I just want to give you the opportunity if you feel that you need to recuse yourself from this section.

**Mr. Perry:** Give me one second to think about that. I think maybe it is probably best if I do.

**Chair:** Okay.

**Jane MacAdam:** I'm just wondering what were the dates, because previous to the minister of education being responsible it was the minister of tourism and culture, I believe.

**Mr. Perry:** The dates would have been May of 2015 to January 2016.

**Chair:** That would have been during the time of the AG reviewing this initiative.

**Jane MacAdam:** Did you say May?

**Mr. Perry:** May 2015 to January 2016.

**Jane MacAdam:** It's outside of our scope period but it's up to the committee.

**Chair:** But you were still conducting your review -

**Jane MacAdam:** Yeah, we were doing our work at the time.

**Chair:** - at this period of time.

**Mr. Perry:** But I wasn't involved at that time. You had no interest in anything with me at that time? I'm out of that timeframe, am I?

**Jane MacAdam:** We were conducting our work at the time so that's -

**Chair:** Again, the reason I raise it is the vice-chair has recused himself before when we have discussed clients of his law firm, to be clear, I believe, it's the Jenkins.

**Mr. J. Brown:** (Indistinct)

**Chair:** I just want to make sure that -

**Jane MacAdam:** We would be questioning people in the department. We would be working on the assignment.

**Mr. Perry:** Okay.

**Chair:** Thanks, Hal.

We'll turn it over to the Auditor General, and again just to remind everybody that as we complete this section, any questions please notify myself as the Chair that you have a question and I will put you on the list.

**Jane MacAdam:** Records Management section. At the outset of this assignment we did not intend to examine records management in government. Due to difficulties encountered in obtaining government records, we reviewed selected practices and policies related to the management of government records. We found that not all government records were being managed and safeguarded as required by legislation and policy.

Legislation and policy clearly outline the importance of protecting government records, the responsibilities and authority of the various parties, and address records management in government. Currently, the minister of education is responsible for the administration of the *Archives and Records Act*. That act requires that the minister appoint a provincial archivist who shall, at the direction of the minister, ensure that the intent and purposes of the act are carried out.

Every minister or head of a public body is responsible for protecting and maintaining records under its custody or control. A public body is defined under the act and includes government departments, Crown corporations, agencies, and offices. Treasury Board policy on Recorded Information Management assigns responsibility for monitoring the compliance with records management policies and procedures to the Public Archives and Records Office.

Some of our findings were that we noted that there were no approved retention and disposition schedules for some public bodies that were connected with this assignment. The Public Archives and Records Office has not been monitoring compliance with legislation and policies. Based on an assessment completed by that office in 2009, 93% of the entities examined had not addressed electronic records management. That office indicated to us that it attempted to complete further assessments and report the results, but various departments did not respond to requests for information. There is

a risk that government records are not being adequately safeguarded and cooperation of public bodies is needed to monitor compliance with the act.

When an employee leaves government, the normal practice is to have the e-mail account removed. Email accounts of some former senior government officials who were key participants in the egaming initiative, the loyalty card program and/or the financial services platform were removed after they left government. For three former senior officials, we did not receive any email or other records from the relevant public body and based on our knowledge of the file, we expected to.

We concluded that government records existed at one time in the email accounts of these individuals because we received relevant government records from other public bodies and sources external to government that should have been retained in accordance with legislation and policy.

We requested from government all relevant texts, including instant messages and PINGs. There were none provided by government even though we were advised that some government business relevant to these files was conducted through these forms of communication. We concluded that we're not confident that we received all relevant government records related to this assignment and we noted a scope limitation in our report.

**Mr. Myers:** I have a question.

**Chair:** Yeah, sure.

**Mr. Myers:** We're going through a lot of information here so a lot of things are popping into my head. One of which is the very fact that you audited records management, because it wasn't part of your original scope. Can you explain to us how you managed to come to audit records management?

**Jane MacAdam:** As I indicated, we didn't intend to audit it but we had some concerns with information, the amount of information, that we were receiving, and in particular, these individuals that we talked about at the previous meeting. For some three senior government officials we did not

receive any information and based on our knowledge of the file we expected to receive information. At that point we decided to look at some of the policies and practices around records retention and management of government records.

**Mr. Myers:** Just up from a high level because I know there's a lot of detail in here, would this be considered a widespread problem, not just applicable to only this file?

**Jane MacAdam:** We noted several issues with records management throughout government. I would say it would be, based on the work that we've done; it would be a widespread issue.

**Mr. Myers:** Thank you.

**Chair:** Bush?

**Mr. Dumville:** No, records management is an information system. I guess it's been kind of bandied around different government departments. I have no idea why it would be under education at the present time. I think ITSS is kind of an electronic form of information. For the life of me, I can't understand if we're going to do a professional job of records of any kind whether they are electronic emails or whether they are paper copies or whatever, that there has to be a professional catchment of all this information. I don't understand why records management and ITSS is not – they're not combined. Is there any form – normally, the organization that I was with before, when you were leaving the organization there was a form for everything. Okay, there's my gun. I had to sign off on my gun. I had to sign off on my kit. I had to sign off on outstanding files.

Is there any level of government where people sign out of all their responsibilities?

**Jane MacAdam:** We didn't specifically look at all responsibilities. But with regards to electronic records, there is a check list or a form that's to be completed before any email account is removed from the system.

**Mr. Dumville:** So what level is it? Is it the director level?

**Jane MacAdam:** It is supposed to be authorized by management, that's what the policy requires.

**Mr. Dumville:** The actual doing of the work, is it at the director level? Or, is it the deputy?

**Jane MacAdam:** ITSS would remove the account but the department or agency would have to sign off on the form authorizing ITSS to remove the account.

**Mr. Dumville:** Is there a form for ITSS? Is there a form for records management within the department?

**Jane MacAdam:** There is that form that talks about removing the account. But on an ongoing basis, I guess, employees are supposed to be managing their records and retaining their records in accordance with legislation and policy.

**Mr. Dumville:** I guess the overseeing of all this, I guess basically what I'm implying, it should all be in one place.

**Jane MacAdam:** I'd say probably different departments may do it differently. Some departments may have check lists for all things to consider when an employee leaves. We certainly didn't look at all that; we didn't look to see what are the checklists in the various departments and do they cover off in all areas. We were really just focused on records management. We got into the removal of email accounts because of this file and because of the fact that there were three senior executives where we didn't receive any information.

**Mr. Dumville:** Thank you.

**Chair:** I got six people on the list right now. What I'd like to do is just perhaps let the Auditor General go through the recommendations and why she came to those recommendations and then I'll continue on with the list in front of me.

**Jane MacAdam:** We had two recommendations in this section in paragraph 7.14 and 7.15.

7.14: The Public Archives and Records Office, in cooperation with public bodies, should monitor compliance with records

management policies and procedures and submit compliance reports to the Minister of Education.

7.15: The Minister of Education, as the Minister responsible for the *Archives and Records Act*, should take necessary action to enforce compliance with the Act.

**Chair:** Thank you.

Next on the list is Darlene.

**Ms. Compton:** We're kind of jumping all over the place here, but the first thing I'd like to just comment on and maybe ask the question about, in your recommendations you talk about that monitoring and compliance with records management policies and procedures. We looked at the conflict of interest just earlier and you're saying there is a policy in place, but are there procedures? You're saying now there are procedures for records management and they vary by department. Am I correct on that, what the procedures are as far as retaining those records?

**Jane MacAdam:** There are specific Treasury Board policies on records management, is that what you mean?

**Ms. Compton:** I'm asking you about the procedures, because you say: should monitor in compliance with records management policies and procedures. We can have all the policies that we want but if no one is following the procedures and there are no procedures in place, it's the same as with the conflict of interest we talked about earlier. Then you're also, I think, stating that it's up to the department as to how they comply to that if there are specific policies and procedures.

**Jane MacAdam:** Each department is responsible for implementing their own procedures in order to support – they're to be congruent with the policies. The policies would indicate certain requirements but then the procedures would be more specific and it could vary from one department to another what specific procedures that department is going to use. But the end result is that there should be compliance with the Treasury Board policy.

**Ms. Compton:** My concern would be: Do those procedures all align with the policy in each department? If we have a whole bunch of different procedures happening in different departments, how do we know that it's actually being done the way that it should be? I think that's what we're – we're looking back here and we're saying we're looking forward. If we don't have procedures in place that are a standard across all departments how are we going to make sure that it happens? I don't know if you could comment on that.

**Jane MacAdam:** No, they're not standardized and we didn't do a lot of work on the procedures. We interviewed the provincial archivist and some of the records and management liaison officers in the departments. Through those interviews it was clear that records management has not been a priority of government; that more training is needed to assist people in the departments with records management issues. In some departments there is not many resources dedicated to records management. It varied from one department to another, but it just hasn't been a priority of government.

**Chair:** Anything else there before I move on?

**Ms. Compton:** Maybe let's go back to 7.1 and start at the beginning here because we're jumping around and we all kind of know how this transpired but let's go back to the beginning of 7.1, where you say that you're not confident that you have all the relevant records that were requested.

I guess my question is: You were given the scope to review this file completely, why did you not receive those in one form or another? Especially if you can track that there were records there, why did you not receive them?

**Jane MacAdam:** For some individuals we didn't get any records. We expected to get some. We got some from other sources. I mean, we randomly got those, we're not confident that we got them all. We were just cross-referencing the information that we had from other sources and we determined that: here is an email for one of those senior executives that should have been retained in accordance with legislation and policy, but

we did not get it from that relevant public body that should have retained it.

**Chair:** One more and then we're done.

**Ms. Compton:** One more. Can you confirm that you did not receive one single record of any, in any way, shape, or form, from Melissa MacEachern or Chris LeClair, not one single record?

**Jane MacAdam:** We did not receive any records from the relevant public body. For Chris LeClair, we didn't receive any records from the Premier's office related to Chris LeClair. But, we did see, we did examine, some emails that were to or from Chris LeClair that we got from another source. We know that the records existed at one time, but they weren't retained in accordance with the policy and legislation.

**Chair:** Just before we jump to Sonny Gallant, so then you can't say for certain there may have been emails between Chris LeClair and Melissa MacEachern directly with regards to this because you didn't receive their emails?

**Jane MacAdam:** There could be emails to and from numerous individuals, really. I'm just not confident that we have all the records. It's not just those three senior executives; even if we got those I still wouldn't be comfortable that I had all the records. Even if we had emails from Chris LeClair and Melissa and Rory Beck, based on all the other issues that we pointed out here, I still wouldn't be comfortable that I got all the records because some of the public bodies did not have up-to-date records retention and disposition schedules. We have issues throughout government where the Public Archives and Records Office was not monitoring compliance with Treasury Board policies, so there are many reasons for concluding that we're not confident that we have all records.

**Chair:** Thank you.

Sonny Gallant.

**Mr. Gallant:** Thank you, Chair.

Jane, in your opinion where you say with the rules – I'll use the word rules – records were not being looked after; that's where you

make that statement you weren't confident that you received all the information because the records management wasn't being looked after properly.

**Jane MacAdam:** Exactly.

**Mr. Gallant:** My question is: In your recommendation 7.15: The Minister of Education, as the Minister responsible for the *Archives and Records Act*, should take necessary action to enforce compliance with the Act. Could you give us a little history? In the recommendations we understand some of these 15 recommendations have been addressed. Is that one of them? Are you aware? Is there any movement on that? Is there any positive change on that that you could share with us?

**Jane MacAdam:** We didn't do any additional work subsequent to issuing the report. All I'm aware of is what I have heard through the media. I didn't get any official response back from government on the recommendations.

**Mr. Gallant:** Thank you.

**Chair:** Jordan Brown.

**Mr. J. Brown:** I just want to go back to get down into the detail a little bit on this, because I still have a bit of a lack of understanding around what was expected at the time. Is every employee of government in the various departments expected to print off every email that they receive?

**Jane MacAdam:** It doesn't say that they have to print them off. They just have to maintain government records. It could be in a shared directory. They could put it – they don't necessarily have to print it off, it just has to be retained.

**Mr. J. Brown:** I guess some of this is important though because the first question we got into was: What's a record?

**Jane MacAdam:** Right.

**Mr. J. Brown:** Last time you had indicated that there's not a real answer to that question. It's something that is relevant to your government work, I think?

**Jane MacAdam:** No, records are defined in the act. It includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphical work, photograph, film, microfilm, sound recording, videotape, electronic data, machine-readable record and any other documentary material regardless of physical form, characteristics or media on which it is stored and any copy thereof.

That's a record, and then there are transitory records which are really records where you're setting up meetings, arranging meetings and things like that. Those are not necessarily government records. Government records include policies and directives, documents that initiate, authorize or complete a business transaction, correspondence related to official business, etc. It does not include transitory emails like I mentioned, emails where you're setting up meetings and things like that.

No, there's no expectation that transitory records be retained. It's just government records and that there are definitions around government records and there are definitions around records.

**Mr. J. Brown:** When I heard that last time – and I go back to my own kind of personal life in my legal practice and what I do here. The first question that jumps to my mind is if we have an issue with the number of licenses and server storage space to put the emails – the records, quote unquote – that we have in the first place, does that issue not still exist if we save them on a shared drive?

I guess what I'm wondering is: What's the detail? In practice, if you go to move it out one step, if you go to do what you're saying should have been done pursuant to the policy, do we have the capacity to do that, do we know?

**Jane MacAdam:** It was raised as an issue. There were concerns with storage capacity – that was communicated to us, but I guess that's why we make the recommendation. On a go-forward basis, the legislation does exist. There are requirements in the legislation, so taking action to enforce compliance with the act and the policy, part of that would be addressing issues like storage and working with ITSS. There's a lot of work to be done in that respect.

**Mr. J. Brown:** Do you guys know from your work and looking at this, or otherwise, what other provinces or the federal government or anybody would do, practically speaking I guess, aside from the policy or what the policy would dictate even with their records?

**Jane MacAdam:** We didn't specifically look at procedures but we know each jurisdiction has legislation around records retention. We didn't do any comparisons.

**Mr. J. Brown:** The reason I ask that line of questioning is, I will say I have a material issue with printing off what amounts to thousands and thousands of email records and storing them some place because I know from working in a law firm what that amounts to. Beyond what it amounts to, you end up with a bunch of paper that unless you have some sort of a way to appropriately index it, it's effectively useless because you have literally banker's boxes and banker's boxes of paper every year if you print off all of the emails. Even by the definition you have given there today, that would be left to go through.

Whether you have them there or whether you don't, they are practically useless if you have no practical way to get through them and look at what's in them. I ask that because we're trying to sort this out. I understand that government is developing a new policy in relation to it, but I hope the policy isn't: Let's kill 1,000 trees by printing off all these emails and not be able to do anything with them even if we do have them printed.

**Jane MacAdam:** Like I said, I don't think it necessarily means printing everything off and I think government can decide how long it wants to retain their records. There are ways of managing that. I know in our office we have a CaseWare system. All of our audit working papers are electronic. We really don't even have many filing cabinets anymore. They're all electronic.

**Mr. J. Brown:** Not to belabour that point, I do find it interesting, we use GroupWise in government, which to me is an antiquated email system where even if you set up folders to put your stuff into, which I have, and I can tell you that it doesn't even alphabetize them so you're literally left

trying to scroll through all of the folders that you've got. I should say, on your desktop it doesn't alphabetize them, but Blackberry has software to do that. These are kind of the problems that we're into and I guess there's a cost associated with switching to – because I have asked the question already – switching to a more updated software to do this, or switching to what sounds like Opentech software, which is what you guys would have, and probably Brad or Steven could probably tell us more about here, but I expect there is a different system.

I just wonder what – and I appreciate you said at the start 93% had not addressed records management and it's a big issue and amongst a lot of priorities, I would want to make sure that we're not going back to doing it an old fashioned way just to comply with a requirement that we keep records for the sake of having records.

**Chair:** I currently have seven other individuals on the list so I'm going to move forward. Just to follow up with what you said there, Jordan, this committee in our report can make recommendations as well, as you're fully aware, and I think that's probably one of the things that we should be looking at.

Chris Palmer?

**Mr. Palmer:** Thank you, Chair.

I wanted to follow up on that as well just to clarify the process. The way it works now, a record is everything that relates to any work that you could potentially do. It's not about: Hey do you want to go out for lunch or go and have a coffee and that kind of stuff?

I have been printing all of the things that I have received since I arrived and I have a banker box full already. It has a bunch of emails that I'm printing and those are all considered to be records. When I get an email about this meeting, this is a record and I print that and put it into a box.

I just wanted to make sure that we've clarified that. This is along the line that Jordie had just asked and I know it's not for you to decide, but could the existing system that we have, could it possibly be the worst system ever invented?

**Chair:** I don't think that's a fair question for the Auditor General.

**Mr. Palmer:** Can I make a comment? I think this is the worst system ever invented, that I assume that as whatever – department of education is looking at a new process, I'm assuming hard drive space is cheaper than paper. We could have a new system in place and I think that's what's being pushed back to the department, is: Give us a new system so that it doesn't put the responsibility back on me to hit print every day, to make sure that I'm doing that, because then we can have compliance.

I think if that's something the department of education is doing, maybe we need to – and your recommendation is made in here that we need to look at that. Maybe we need an update on that as: Do they have a new process? Because as I said, this is probably the worst one you could invent and I'm assuming that the new one is better.

Maybe that's a request for documents that I can ask for at the end of this section of what is the draft process. Or, are they coming up with a new one? Because I think they are, but I don't know for sure that they are. Is that something we can put down here as a –

**Chair:** Yeah, you just note it towards the end –

**Mr. Palmer:** –potential – so I can just ask it at the end?

**Chair:** – yeah, towards the end and we can ask it.

Or, the other thing that we can request is for an individual that's responsible for this within the archivists office to come in to give us an update on the work that they're doing or on any recommendations that they have moving forward.

We can ask for the minister of education to come in, but I mean again, that would be like asking the Auditor General: What's the pinnacle system that we should have out there? I would rather ask somebody like Blair Vessey from the University of Prince Edward Island who is the director of ITSS out there to come in because he's an expert in this field and he could tell us.

**An Hon. Member:** (Indistinct)

**Mr. Palmer:** The last piece of that is when we were talking about records that aren't available. If there's an email between Melissa MacEachern and Cheryl Paynter we have record of that because Cheryl still is an employee and those mailboxes are maintained, is that correct? Any email that Melissa or Chris would have sent to Cheryl or anything that Cheryl would have sent to – because I think they were part of the folks that were investigating that; we would have all of those emails, is that correct?

**Jane MacAdam:** Unless the email was deleted.

**Mr. Palmer:** If it's deleted from Cheryl Paynter's mailbox, then we don't have it anymore, that's permanent deletion? Or, is that –

**Jane MacAdam:** Up to a year, yeah.

**An Hon. Member:** You couldn't delete it though?

**Mr. Palmer:** Yeah, I thought – I guess I just didn't understand that then. My understanding was if the mailbox is there we have those emails forever until Cheryl doesn't work here anymore and then we do something – in a year from now we delete it. That's not the case?

**Jane MacAdam:** No.

**Jennifer Bowness:** We were informed that as long as files are not deleted they are backed up daily and are accessible. But once they are deleted, whether it's an electronic file in the shared drive or an email or an email account, then they're only recoverable up to a year.

**Mr. Palmer:** If there was an email that Brad deleted yesterday, up to 360 days from now we can still get it, but in a year plus one day it's now gone?

**An Hon. Member:** (Indistinct)

**Mr. Palmer:** Okay.

**Some Hon. Members:** (Indistinct)

**Mr. J. Brown:** They said last week that they couldn't (Indistinct).

**Chair:** We're going to get into a cross conversation. Chris Palmer has the floor currently.

**Mr. Palmer:** I'm still not understanding. I guess if I looked at the scope time of when this happened that we're looking at and when you request an email, I thought some of the email that you had requested were two years old. Oh, so as long as it's not been deleted, it's still sitting in the mailbox. Okay, so anything that has somebody hit the delete button on – so someone, that's gone.

**Jennifer Bowness:** Yeah, but I think it's more like, it's not just deleted out of your inbox, it would have to be deleted out of your sent items and deleted out of your trash –

**Chair:** And your archive.

**Jennifer Bowness:** – and your archive. It's not just one deletion; it would have to be deleted from all sources to not be recoverable.

**Chair:** Chris, I've got a lengthy list here.

**Mr. Palmer:** Yeah, okay, well I'm done. I don't know if I fully understand that yet but we can keep going.

**Chair:** Next on the list I have Matt MacKay.

**Mr. MacKay:** Thank you, Chair.

Section 7.2, you reference emails and text messages, what legislation do these records fall under for protection?

**Jane MacAdam:** It's the *Archives and Records Act*.

**Mr. MacKay:** Going to 7.3. At the time, who was the provincial archivist?

**Jane MacAdam:** It was Jill MacMicken.

**Mr. MacKay:** MacMiken.

**Jane MacAdam:** Jill MacMicken-Wilson.

**Mr. MacKay:** Chair, I got three more.

Section 7.3, who was the minister responsible for the records management during the course of the audit period between 2009 and 2013?

**Jane MacAdam:** It was tourism and culture from 2010 to February 2015. There was a period of time where Robert Vessey was the minister and a period of time where Robert Henderson was the minister. It was mostly Robert Henderson. Then in May of 2015 it was Doug Currie.

**Mr. MacKay:** Did you interview any of these individuals?

**Jane MacAdam:** No.

**Mr. MacKay:** Last question, Chair. Were any of the ministers responsible aware that Cabinet colleagues were breaking the *Archives and Records Act*?

**Jane MacAdam:** Pardon?

**Mr. MacKay:** Were any of the ministers responsible aware that Cabinet colleagues were breaking the *Archives and Records Act*?

**Jane MacAdam:** Not to my knowledge.

**Mr. MacKay:** Thank you.

**Jane MacAdam:** Hal Perry would have been the minister of education at one point as well.

**Chair:** Is that it, Matt?

**Mr. MacKay:** That's good. Thank you.

**Chair:** Jamie Fox next.

**Leader of the Opposition:** Thanks, Chair.

I want to go back to something Bush went and touched on awhile back. Archives and that management system used to be under culture and affairs and then the new premier comes in and he moves it to education.

**Chair:** Tourism and culture.

**Leader of the Opposition:** Any understanding why, or an opinion on why it was moved from culture to education? Can you –

**Jane MacAdam:** I can't speak to that, no.

**Leader of the Opposition:** Thank you.

**Chair:** Peter Bevan-Baker.

**Dr. Bevan-Baker:** Thank you, Chair.

Jane, over the years you've done many audits and my first question is: In any of the other audits that you've done have you ever encountered this sort of delay or obstruction in gaining records to this extent?

**Jane MacAdam:** This assignment was different than a lot of other assignments that we would do. Typically when we would do an audit there would be project files, there would be financial records and things like that. This assignment was different. A lot of the information that we obtained was through emails. It's different in that respect. I can't recall ever doing an audit on records management in government. I can't say if we had looked into it earlier that we wouldn't have had the same kind of issues.

**Chair:** Go ahead, Peter.

**Dr. Bevan-Baker:** A couple of things (Indistinct) from that. First question would be: Is it unusual then for government business – particularly when the dollars amounts that are involved with the egaming file – that most of the records would be only electronic or predominantly through email? Do you find that unusual?

**Jane MacAdam:** I think it kind of goes back to the issue we had with the local law firm and the fact that the egaming initiative operated outside the normal control framework of government. We would have expected more information to be available in government, but instead it was with the law firm. We had that issue in the egaming assignment because we concluded it was a government project, but yet there were a lot of documents that we didn't have access to, so that's not normal.

**Chair:** (Indistinct) got down the list. Keep going, Peter.

**Dr. Bevan-Baker:** Thank you, Chair.

A second question: In any other audits that you've done where you have had to ask for

email records, have they been readily available to you?

**Jane MacAdam:** I can't recall instances where they weren't available, but emails wouldn't have formed the bulk of the documentation that we would have been seeking. Typically, like I said, there would be project management files. The emails wouldn't form a large part of what we would need to conclude on our audit objective.

**Dr. Bevan-Baker:** I understand that and I guess the point I'm trying to make is in any other audits that you have done where you have had to ask for emails as sort of supplementary or secondary information, have you ever had a situation where you could not obtain those emails?

**Jane MacAdam:** I can't recall of any.

**Chair:** I'll give you one more and then I have to move along.

**Dr. Bevan-Baker:** Thank you.

I think there's sort of general confusion around this from everybody around the table. One of the areas of confusion that I have is in the retention of these records. We're told by somebody in ITSS that it's a technical capacity issue that the records cannot be retained because we don't have the capacity to store them. We're also being told that these records have not been retained because it's not necessary under the protocols that we have.

I'm asking you which – if we have the – gosh, I'm not quite sure how to phrase this question. Is the problem with record retention one of technical capacity or is it that we do not have the regulations in place, the protocols that demand that be done? Or is it both?

**Jane MacAdam:** I would say it's both.

**Dr. Bevan-Baker:** Thank you, Chair.

**Chair:** Steven Myers?

**Mr. Myers:** Thank you, Chair.

There's been a lot of – I have a lot of questions written down so I may have to do this in a couple of runs, but I want to go

back to a couple of things because we talked about the server storage space and ITSS's responsibility in doing it; but we do have a provincial archivist, and my understanding of ITSS from working there for the majority of my adult life is that they provide services to people. They don't actually do the work. They would provide a system for the archivist to archive the information. I just want to clarify that wouldn't necessarily, though the server may sit there.

Al Roach, when we had him on the floor during the capital estimates, he said that – this is how he explained what happened when you left. He said if a person were to decide they were going to leave government today, the way the rules are is they'd sit down with the human services and a human resource officer will go over all of their files. Any files that were determined to be required to be kept for a file would be printed off and attached to a hard file. Any other records that were determined that did not need to be required would be kept and they would be downloaded where they would sit for a year.

Based on that, my first question is: How did the three email accounts come to be deleted?

**Jane MacAdam:** It was approved by management, the closing of the email account. There's a policy about closing accounts and it says that accounts can be closed if it's authorized by management. These were all authorized by management.

**Mr. Myers:** Management being, because they were deputies – who would their bosses be? They'd be ministers and premiers.

**Jane MacAdam:** Yes, or acting deputy; like in the case of Melissa, it was the acting deputy.

**Mr. Myers:** Which was?

**Jane MacAdam:** Neil Stewart.

**Mr. Myers:** Neil Stewart approved that. So in the case of Chris LeClair, who approved that?

**Jane MacAdam:** That would have been Robert Ghiz.

**Mr. Myers:** Robert Ghiz approved that? Okay, that just came as an order and it trickled down through ITSS and happened based on the way the rest of the policy would work after that order took place?

**Jane MacAdam:** Yeah, based on ITSS procedures. They have a form that authorizes the account to be removed, so they would just follow their procedure.

**Mr. Myers:** In the Premier's Office, did you say you didn't receive any emails from anybody in the Premier's Office?

**Jane MacAdam:** No. I said I didn't receive any emails for Chris LeClair.

**Mr. Myers:** Who did you receive emails from?

**Jane MacAdam:** There were some emails related to Robert Ghiz that we received.

**Mr. Myers:** Related to, or from or to?

**Jane MacAdam:** I'm not sure if it was to or from.

**Mr. Myers:** Okay, but it was from his account.

**Jane MacAdam:** It was his account, yes. It was his account.

**Mr. Myers:** Based on that, how – I know it has nothing to do with this section, but how much in depth participation did Robert Ghiz have in this file?

**Jane MacAdam:** When we interviewed him he indicated that a lot of the involvement was the former minister of finance. He was the lead on the file.

**Mr. Myers:** You mentioned earlier about though the email accounts had been deleted, you had received emails that were either to or from them from another source. Who were the other sources that you received emails from for those particular three accounts?

**Jane MacAdam:** I don't think I have that with me. They were from other public bodies so it would be public bodies outside of the Premier's Office.

**Mr. Myers:** Like –

**Jane MacAdam:** I don't have a list with me.

**Mr. Myers:** Okay, maybe that's something we can put on then for – you can come back to me.

**Chair:** Moving along, Bush Dumville.

**Mr. Dumville:** I guess I'm just trying to get my head around this here fact that we have records management. It's bouncing around from different government departments. We have ministers coming in and ministers going out and we had a minister there that was here for a very short period of time and I've been in another federal government department where records management was treated a little differently than the provincial system.

We were more centralized, put more emphasis on it and it was professionally run and you had to sign files in and out on a regular basis and we had the staff there to do that. Does every department have their own records management?

**Jane MacAdam:** I think they have a records management liaison officer, or they are required to have one. I'm not sure if every department has one.

**Mr. Dumville:** Because like Mr. Myers said, ITSS is a service – it provides a service to the departments and because of its electronic capability it's all confined. It's easier to shift things around, much more than a manual system.

We have had discussion here, it almost seems everybody is set up for failure because we've got one banker box here and he's only been here a short period of time. Wait until he gets to be a few years here. He won't be able – if you literally do that, you won't be able to get in your office. I just see that there has to be a more professional records management setup for government. It's too all over the place. Would you agree to that?

**Jane MacAdam:** I would. We didn't get into the details with our recommendation. We made an overarching recommendation that the minister of education enforce

compliance with the act. That has a lot of parts to it. There's coordination with ITSS. There's maybe really hard examination of how long does government want to keep their records? Maybe some of the schedules they have need to be revisited. They're trying to maintain too many records for too long a period of time.

Those are all issues that government is going to have to grapple with in terms of enforcing compliance with the legislation as it currently exists. That's what we audited against, the legislation that currently exists.

**Chair:** Thanks, Bush.

Brad Trivers.

**Mr. Trivers:** Thank you, Chair.

I'm just looking at section 7.5 here where you talk about the *Archives and Records Act*: Who were the members of the public records committee during your audit period?

**Jane MacAdam:** There was – the act states it's the deputy minister of finance, the clerk of executive council, the provincial archivist and the deputy minister of justice and there are two other appointments by Order in Council. I don't know the names of those individuals but those are the positions that are on the committee.

**Mr. Trivers:** Would you – is that something we need to request for you to bring back to us?

**Jane MacAdam:** I can bring that back if the committee wants it (Indistinct)

**Mr. Trivers:** I'll add that to the list.

**Chair:** Somebody please note that and we'll (Indistinct) –

**Mr. Trivers:** Another one, Chair?

**Chair:** Sorry, go ahead.

**Mr. Trivers:** Your report states that the Public Archives and Records Office is responsible to report to the minister on compliance with the government's records. How is that compliance reporting completed? Is it official correspondence? Is

it a memo? Is it email? Is it a report? Is it scheduled on a regular basis?

**Jane MacAdam:** In 7.8 – if you look in paragraph 7.8 we say a recorded information management assessment. So that would be one way that they would report on compliance. That’s a comprehensive review to determine which public bodies have a recorded information management plan, which have up-to-date retention schedules and whether records are retained in accordance with the act.

We note here that they did some work in 2009 and electronic records management hadn’t really been addressed by 93% of the public bodies, and they attempted to do further assessments but they didn’t get the cooperation of the various public bodies to complete their assessment.

**Mr. Trivers:** Wow. Chair?

**Chair:** Okay.

**Mr. Trivers:** I wanted to ask a question – you said – you read them off. There are 12 to 15 different record types that are defined as information that should be retained and I just wanted you to comment and clarify again why you think none of those records were provided for some individuals, like for example Chris LeClair?

We’re not talking just emails. We’re talking memos. We’re talking everything. Why do you think you were provided with none of that information? There was nothing.

**Jane MacAdam:** What we concluded is that it’s not – records management in government, it’s not a priority. It’s not a priority. It hasn’t been adequately addressed.

**Chair:** Brad.

**Mr. Trivers:** I wanted to know if all departments actually do have retention disposition policies in place now. You mentioned that there were a bunch that didn’t before.

**Jane MacAdam:** There’s three that we list here in the report. We didn’t do any further work subsequent to this. I’m not sure if subsequent to our work some of these public bodies have, in fact, filed disposition and

retention schedules; but at the time of our work, at least these three, and we were only looking at the ones that were connected with this assignment.

**Chair:** One more.

**Mr. Trivers:** I just wanted to address some of the speculation that we’re doing on records management here at committee, specifically with respect to emails. Really, there are a couple of us around the table that are IT professionals, but I don’t think anyone around this table has experience with the internal processes of ITSS when it comes to their data room servers.

Email is a central service that is provided by ITSS to all government departments through various pieces of software like Groupwise, but on the back end, on the server, I’m sure they have very specific protocols in place for accessing the servers. There’s probably audited records of who logged on and when.

I’m not actually very confident we truly understand what deleting an email actually means. We all have different ideas of that and I was going to suggest to one of the committee members – maybe you add it to your list – that we get someone from ITSS in as a witness to just help clarify some of these things; especially around emails and email servers, what deletion means, and what information’s actually stored, how is it stored, all the details around that.

I wanted to throw that forward to the committee members for consideration.

**Chair:** Thank you, Brad, duly noted.

Next on my list I have Jamie Fox.

**Leader of the Opposition:** Thank you, Chair. I’ve got about four questions.

I want to go back to something that Mr. Bevan-Baker said. He asked you a question and you answered – my understanding is that – some of the information that you wanted but could not receive was within the law firm that was associated to the files. Do you think there was an attempt there by some of these government officials to hide information within the law firm so that they couldn’t be tracked back to government?

**Jane MacAdam:** Well, we say it was outside the normal control framework of government. I don't know that it was deliberately done like that to hide information, I can't say that. I can say that because it was done that way there was limited access to us, and we make a recommendation that in situations like that there should be a documented agreement that outlines requirements around confidentiality, conflict of interest and access to information.

**Leader of the Opposition:** I take from that it almost sounds like there was possibly, there could be a conspiracy, and that's how – we'll hide it over here so you guys can't see it.

In regards to paragraph 7.6, you reference the difficulties that you encountered. Were there any other difficulties beyond the deleted emails that you couldn't get information?

**Jane MacAdam:** That's what sort of triggered our work in this area, was the difficulties getting records related to some officials that we believe, based on our knowledge of the file, there would be records. It caused us to pause and say: We need to look into this issue.

**Leader of the Opposition:** Thank you.

You reference these liaisons, these record liaison officers. Who were these individuals that were responsible for taking care of records? What was their role?

**Jane MacAdam:** We don't have a list of who they are. I don't have that with me.

**Leader of the Opposition:** Maybe somebody on the committee could ask for that information to be brought back at the end.

Jane, can you explain why the Premier's office is not listed as a public body for records management under Treasury Board rules?

**Jane MacAdam:** Under the Treasury Board policy?

**Leader of the Opposition:** Yes.

**Jane MacAdam:** We were advised that they were a public body under the public *Archives and Records Act*.

**Leader of the Opposition:** Question. The government record and information management rulebook fail to list a record management office for the Premier's office? Why do you think that is? Why would (Indistinct) –

**Jane MacAdam:** The archivist told us that was an oversight.

**Leader of the Opposition:** An oversight. Final question, Chair, is: Can you please tell me who, in your records, are the persons that were referenced that you interviewed?

**Jane MacAdam:** Pardon?

**Leader of the Opposition:** In regards to record management, who did you interview in regards to record management?

**Jane MacAdam:** I have a list. We can go over that list. We interviewed Jill MacMicken-Wilson, who is the provincial archivist. There's a director, Kathleen Eaton, we interviewed her. We interviewed four records management liaison officers in total. We interviewed individuals in ITSS with regards to records management.

**Leader of the Opposition:** Who were the four that you interviewed? You said (Indistinct) –

**Jane MacAdam:** Four records –

**Leader of the Opposition:** Yeah.

**Jane MacAdam:** I don't have that list with me.

We also interviewed Norman MacDonald, the former chief operating officer. We interviewed Tracy Wood, the current chief operating officer of ITSS, and we interviewed Ed Malone, the director of infrastructure for ITSS.

**Leader of the Opposition:** Thank you.

**Chair:** Jordan Brown.

**Mr. J. Brown:** Thanks, Chair.

I have two kinds of lines of questioning. One's just a quick question, I think, and then the other is more clarification.

Earlier, Peter had asked something to the effect of – and there were two words that stuck out to me, because I know Peter to typically choose his words carefully – whether you had ever experienced such delay and obstruction in obtaining records in any of your audits previously.

I just want to follow up on that because there was an implication there to me, that – you know, the words “delay” and “obstruction” are two very particular words that imply an act was done to, in effect, encumber your investigation.

I think we've asked and had that question answered before: Do you feel that you were deliberately encumbered from doing your investigation in turning any of these records over?

**Jane MacAdam:** No, I don't think it was deliberate. It wasn't clear to us that any of these records weren't retained on purpose.

**Mr. J. Brown:** Thank you.

I wanted to go back and follow up on Steven's questions related to, kind of the actual on the ground mechanism to – and I'm not even going to use words because I don't know what the reality is, just to Brad's point, too – but I just want to maybe put my understanding on the table and see if you can clarify.

We'll use me as an example. Say I was a government employee and tomorrow I leave government. My understanding would be, it could be tomorrow or the day after tomorrow, whoever my – I'm going to say my boss is – would sign something that would say: Disable – and I think that is the word – Jordan's email account.

That then goes to ITSS and they basically notarize it for a year and remove Jordan's account – which again is probably a term that I shouldn't use so loosely, but again I think it is important that we know what we're talking about when we talk about these things – off of the server and switch it out for whoever is the next one on the list. Is

that a pretty accurate description of how that happens?

**Jane MacAdam:** An account can be disabled, which is different than being deleted.

**Mr. J. Brown:** Can you –

**Jane MacAdam:** There are two different –

**Mr. J. Brown:** We're using those words a lot. Can you explain that?

**Jane MacAdam:** Disabling means that the user account is retained. The user account is there, but the account cannot receive emails.

**Mr. J. Brown:** Okay.

**Jane MacAdam:** Through proxy access, the emails in the account can be viewed. Someone can actually go in and view the emails in the account. But that's disabled.

**Mr. J. Brown:** Deleted means –

**Jane MacAdam:** Deleted means there's nothing – there are no emails in the account any longer and they can be recovered for up to one year after the account is deleted.

**Mr. J. Brown:** Okay so what – in the cases that we were talking about –

**Mr. Palmer:** Disabled (Indistinct) –

**Mr. J. Brown:** Sorry?

**Mr. Palmer:** Disabled?

**Jane MacAdam:** Deleted.

**Mr. Palmer:** So in a year from now (Indistinct) –

**Chair:** Jordan has the floor right now.

**Mr. J. Brown:** I'm happy to have – because this is – I can't for the life of me make these distinctions at this point in time anyway. The day after tomorrow, in my case, my account will be disabled and then it would be slated for deletion in a year? Is that right?

**Jane MacAdam:** It depends what management requested. Management could request that your account be deleted or they

could request that your account be disabled. It depends what the request is to ITSS.

**Mr. J. Brown:** Back to the – ostensibly, too, there were three names that you had mentioned that you didn't have emails for. Do you know or can you tell us: Were the accounts disabled or were they deleted kind of the day after (Indistinct)

**Jane MacAdam:** The accounts – we say in the report the accounts were closed or deleted. So we use those terms interchangeably, closed and deleted. In this case, it's not a matter of them being disabled. They were deleted.

**Mr. J. Brown:** They weren't there for the year afterwards then?

**Jane MacAdam:** They were deleted.

**Mr. Myers:** Thank you.

**Jane MacAdam:** They could be recovered.

**Mr. Myers:** (Indistinct) for months.

**Jane MacAdam:** They could be recovered for up to a year from when they were closed or deleted.

**Jennifer Bowness:** (Indistinct)

**Mr. J. Brown:** I'm still confused.

**Jane MacAdam:** Do you want to provide any further clarification, Jennifer?

**Jennifer Bowness:** In these three cases they were deleted. When an account is deleted, that is when that one year recoverable access comes into play. If the account is disabled it's there. It's backed up daily just like everything else. Like we explained before, when something's deleted, that's when it has to be recovered for that year period, but a disabled account isn't deleted. It's there for the viewing.

**Mr. J. Brown:** Okay.

**Jennifer Bowness:** It's just not accessible by you. You couldn't use your email account if it was disabled, but your former manager –

**Mr. J. Brown:** Right.

**Jennifer Bowness:** – could have proxy access and that account would be there.

**Mr. J. Brown:** So let's go back to the example you used in relation to Melissa MacEachern. If Neil Stewart comes in on – we'll call it the day after tomorrow – as the deputy of, I guess it was tourism I think we said at the time, and Melissa MacEachern had been the deputy up until the day she left, tomorrow, would he have any way of knowing that she did not comply with the *Archives and Records Act* up until her time of leaving?

In other words, when he, I think we said, signs something saying delete the account would he know that whether she did or whether she didn't comply with those records?

**Jane MacAdam:** In the case of Melissa, her account was open for a period of time with proxy access so someone could go in and look at the emails that were in that account before it was deleted.

**Mr. J. Brown:** Maybe there are two sets of questions then. One is, we'll say normally or maybe in the question of Chris LeClair, would somebody know that whether he had complied with that – would somebody know if he had 10 boxes of paper in his office where he printed that stuff off? I think we said today we could put it on a shared drive or whatever: Is there a way that whoever is signing off on that account being put into the one year ability to look at it would know?

**Jane MacAdam:** It would be up to the employee, really, to communicate whether or not there were any records that were there that should be retained.

**Mr. J. Brown:** It's an important point, I think, in terms of the questions that are being asked because Rory Beck who died suddenly, if there's ever – and very unfortunately, Chris LeClair who, I think in your words, left abruptly and I don't know if we've said why or how abruptly was it Melissa MacEachern left, but I'm presuming that a lot of those people weren't – well, we know Rory wasn't coming back to say what he had or had not done, but if Chris left abruptly I can't imagine that he has either and Melissa MacEachern I don't know.

**Jane MacAdam:** In the case of Rory there was proxy access for about five months.

**Mr. J. Brown:** Okay.

**Jane MacAdam:** There was proxy access to his account for about five months before it was deleted.

**Mr. J. Brown:** Right. Do we know generally – did whoever signed off on those going, did they know these were or they weren't printed off or whatever that was supposed to be done? Did the question get asked anytime, do you know?

**Jane MacAdam:** It was Karen Stanley.

**Jennifer Bowness:** (Indistinct)

**Jane MacAdam:** That wasn't a specific question that we asked the person who authorized the deletion.

**Mr. J. Brown:** Generally, I guess the final question would be: There was at least a one-year opportunity to go back and look at those before they were – I don't know what you call that, totally gone? We maybe need to make up a new word, but they're there for a year even – there's proxy access for so long after the person is gone. Then, this paper is signed saying delete, I guess, and then after a year it's gone? Am I correct in understanding that?

**Jane MacAdam:** But the proxy access and the disable – it depends what the request is to ITSS. It's whatever management requests ITSS to do. It's not automatic that every account is proxied or disabled for a certain period of time. It depends on management of the organization, what they direct ITSS to do.

**Mr. J. Brown:** Maybe one final question on that, Chair?

**Chair:** Okay.

**Mr. J. Brown:** Is there an overall policy that if somebody leaves – I think Mr. Myers asked this question (Indistinct) – is there an overall policy if somebody leaves as to how long their account should be left to sit there? I understand there's an issue with the number of licenses that we have and that's why we – I guess delete is the word,

accounts? Is there a policy that says you should have your account deleted within a certain period of time?

**Jane MacAdam:** No. Not that I'm aware of any policy.

**Chair:** Thank you, Jordan.

Peter Bevan-Baker is next on the list.

**Dr. Bevan-Baker:** Thank you, Chair.

Some of this stuff that I had written down here has been covered with the distinction between the removal and disabling and deleting and I think I have a clear – it's clear that they were indeed deleted here. I feel I have to respond to what Jordie Brown just said because my question was in any other audits if you had encountered delay or obstruction in obtaining records.

I think what I was trying to – the point I was trying to make is that in this egaming file-typically, let me put it in another way. Typically with government work, records are fairly readily available for review or scrutiny, as you said. You can come across that, but here it is clear to me that pretty extraordinary preconceived efforts were made. Whether that was between government departments and agencies where thresholds for loans that IIDI, for example, being \$1 million: Well, we'll make it \$950,000 so we don't have to go for Treasury Board approval or the CEO of IIDI can approve a loan on his or her own account for \$100,000, which was exactly what was done, or that: We use outside contractors, McInnes Cooper, in order to navigate through this.

The point I was trying to make is that the measures that government took in order to prevent close scrutiny or review of these files, to my mind clearly preconceived and that's the point I was trying to make here.

I have one question and it relates to the retention of emails. If I understand this correctly, in order for an email, particular singular email, to be unavailable it has to be firstly part of an inactive account, account that has been deleted, and for that account to have been deleted for over a year. Also, that the recipient of that email, presuming they are still active in government, must have

actively triple deleted that email. That's not something that happens accidentally. Am I correct in that?

**Jennifer Bowness:** That's our understanding, yes.

**Dr. Bevan-Baker:** Yeah.

Again, the confluence of all of those things which would allow an email to be unattainable is not something that happens accidentally. This preconceived ongoing –

**Mr. J. Brown:** Peter, they've already said they have the back end of the emails.

**Chair:** Jordan, Peter has the floor right now.

**Mr. J. Brown:** I know. In fairness, he's trying to clarify and I (Indistinct) –

**Chair:** You can have –

**Mr. J. Brown:** He's saying –

**Chair:** You can have – Jordan, you can have –

**Mr. J. Brown:** – obstruct and delay –

**Chair:** You can have the floor when it's your turn.

**Mr. J. Brown:** – and now he's going back and basically saying –

**Chair:** Peter, you have the floor.

**Mr. J. Brown:** – (Indistinct) words.

**Dr. Bevan-Baker:** Thank you, Chair.

That's all I wanted to establish.

Thank you, Chair.

**Chair:** Okay. Next on my list I have Chris Palmer.

**Mr. Palmer:** Thank you, Chair.

Jane, can you – I just have two questions. A records management officer, is that what they're called? Is that a fulltime position in departments?

**Jane MacAdam:** No, not always. I don't know if they ever are, really. It's at the discretion of the department based on their resources.

**Mr. Palmer:** It could be the responsibility just added to somebody in the office that this is now something that you're in charge of.

**Jane MacAdam:** Right.

**Mr. Palmer:** The other one would be related to this entire section. Would a new, robust records management system coupled with policy and procedures make this section obsolete in the report? If we had a records management system – based on your recommendations – if we had a robust records management system that didn't depend on me hitting print every day, coupled with the policies and procedures to have them properly stored and backed up and additional hard drives, or whatever it is, would that kind of deal with all of the points in this section of your report?

**Jane MacAdam:** I can't really say that. We will follow up on this recommendation in a couple of years and we will assess whether or not it's been adequately addressed.

**Mr. Palmer:** Based on recommendations that you've made, if we had a backup copy of every email and people were following along with those procedures, then we wouldn't really have to worry about records management if it was all –

**Jane MacAdam:** Well, if all records –

**Mr. Palmer:** – backed up (Indistinct) accessible.

**Jane MacAdam:** If all government records were retained then –

**Mr. Palmer:** Right.

**Jane MacAdam:** – there would be no issue.

**Mr. Palmer:** Be accessible, right. That's all I want.

Thanks

**Chair:** Steven Myers.

**Mr. Myers:** Thank you.

I have a few different topics that I wanted to touch on, and one is this notion that emails needs to be printed off and put in boxes in order to retain them. My understanding of the act, it doesn't say that all. It just says you can't delete them, which means you can keep them.

Could we have a clarification on whether or not the act says you have to print off every important email and put it in a banker's box or just don't delete it?

**Jane MacAdam:** Well, the act – I mean, the overarching objective of the act is that government records be retained. Records can come in many different formats, so it doesn't mean they all have to be hard copy records.

**Mr. Myers:** Thank you.

On the records can be recovered – because I've heard numerous times here that the clock started to tick for one year after they were deleted. Who from ITSS told you that, and what was the exact premise of that argument?

**Jane MacAdam:** We were advised by Norman MacDonald, who is the former chief operating officer of ITSS; Tracy Wood, the current chief operating officer of ITSS; and Ed Malone, the director of infrastructure for ITSS. All three individuals told us that when an account is closed or deleted it can only be recovered for up to one year.

**Mr. Myers:** Did they say why that was?

**Jane MacAdam:** No, I don't think there was any specific explanation. They just explained that's how the system works.

**Mr. Myers:** Because in my opinion, in order to do that, they would have to change the whole premise of computer science because that wouldn't be the case at all. What they may have been referring to is their own tape backups got overwritten after one year, but the hard drive itself would be recoverable for infinity in the proper hands. Did they lead you to believe that those emails couldn't be recovered from the hard drive?

**Jane MacAdam:** Probably you should answer that.

**Jennifer Bowness:** They informed us that they could not be recovered after one year in any method.

**Mr. Myers:** It's my understanding the RCMP laboratory in Halifax could, and does on a routine basis, recover that type of information. That's how they catch people that are in child pornography circles and that type of thing, is they recover deleted information.

Once it's deleted, it's basically like magnetic – it's erased so that you can't see it anymore. It doesn't mean it doesn't physically exist there anymore.

**Leader of the Opposition:** (Indistinct)

**Mr. Myers:** Yeah, so I guess the clarification I'm seeking is if they meant their tape backups of the server only go back a year, or that they truly believe that it was only physically possible to recover from a hard drive for up to a one year period.

**Chair:** If I may interject for a second, I understand your line of questioning –

**Mr. Myers:** Yeah.

**Chair:** – but I don't think the Auditor General or her associate is in a position to –

**Mr. Myers:** No, I was asking what they were told.

**Chair:** Okay.

**Mr. Myers:** I know you're not computer scientists, that's fine. I'm trying to seek clarification of what they actually said to you to see if –

**Jennifer Bowness:** As I already said, they told us that once the email account is deleted or any other electronic record is deleted, it is only recoverable for up to a 12-month period. When we specifically asked about these email accounts, they told us that given that the date that they were deleted, they are no longer recoverable and no one can recover them.

**Mr. Myers:** Thank you.

During the course of your investigation, did you investigate or did you interview Erin Mitchell, who was active in the Premier's office during that period?

**Jane MacAdam:** I don't recall. She's on that list, but I've interviewed her for various things. I'm just trying to recall if it was for this assignment. We would have interviewed her when we validated the findings with the department of justice.

**Mr. Myers:** Did you interview Geoff Townsend, who was also active in the Premier's office during this period?

**Jane MacAdam:** No.

**Mr. Myers:** What happened to the records that were not emails? The records that weren't electronic for the three people that had deleted records. Any paper memos, booklets, any records that weren't electronic records.

**Jane MacAdam:** We didn't get any records, emails or hard copy documents from these individuals.

**Mr. Myers:** Right. Is there a separate process for destroying those?

**Jane MacAdam:** Regardless of the type of record the *Archives and Records Act* requires that that be retained. It's all I can speak to. We asked for all documentation related to the assignment and for these three individuals we didn't receive any relevant records connected with these people.

**Mr. Myers:** I do understand that, and I guess where I'm coming to is that in order for an email account to be deleted there's forms and triple deletion and all those processes that happen down the line. Who deletes paper documents? So ITSS isn't responsible –

**Jane MacAdam:** It's up to the person to manage their own records.

**Mr. Myers:** But in the case where Rory Beck died, who went in his office and shredded his documents?

**Jane MacAdam:** I don't know that there were records destroyed connected with – I

don't have evidence that there were hard copy documents destroyed for Rory Beck.

**Mr. Myers:** No, that's fine. You mentioned about email proxy on at least two of the cases you mentioned. What about Chris LeClair? Did they have proxy to his after he was gone?

**Jane MacAdam:** No, they didn't.

**Mr. Myers:** For the two that there was proxy access, who had access?

**Jane MacAdam:** For Melissa it would have been Neil Stewart had access, and for Rory Beck it would have been Karen Stanley. They were given proxy access, but that's not to say other people couldn't access the account. That was just a responsible – someone in a management position within that public body.

**Mr. Myers:** Yes, and I understand that, and I guess again the point that I'm coming to is that in the case of Neil Stewart who took over for Melissa MacEachern and thus took over the responsibility for everything that happened afterwards, including the cover-up of this file, he had access to any of the information that he would have required or that this committee would have required prior to the deletion of his account. Would that be the case?

**Jane MacAdam:** Her account was left open for approximately five months, so there was access to her account.

**Mr. Myers:** Okay, thank you.

**Chair:** Ladies and gentlemen, it's just about 10 to 12 and my plan was to adjourn the meeting at 12 noon today as there is some other business taking place by myself and I think one other member had mentioned it as well.

I still have Darlene, Matt, Brad, Jordan – Sonny took himself off the list – and then Jamie Fox, so I will retain this list for the start of the next meeting which is currently scheduled for the 25<sup>th</sup> of January; but moving forward, what I'd like to propose is that we first and foremost confirm that the next meeting will be on January the 25<sup>th</sup>.

We know already that the Auditor General is not available for the following Wednesday, February the 1<sup>st</sup>, so we do need to have some discussion whether we will be meeting on the first of February, and if we are what that agenda will look like.

**Leader of the Opposition:** Chair.

**Chair:** One moment, Mr. Fox; and then we also need to wrap up any requests for information or any motions that may come forward from today's meeting.

Jamie.

**Leader of the Opposition:** Can I ask one question on something that Mr. Myers –

**Chair:** One real quick question.

**Leader of the Opposition:** In regards to Mr. Beck, can you tell me who took care – with his passing, can you tell me who took care of his records after that?

**Jane MacAdam:** I'm not sure we have that information, like who took care of his records. We know that Karen Stanley – who works for Executive Council, she's a director – that she authorized the deletion of the account approximately five months after he'd deceased.

**Leader of the Opposition:** Thank you.

**Chair:** Yes, thank you.

I'd like to thank both Jennifer and Jane for coming in today and answering the many questions that were submitted and reviewing this section and your recommendations.

So at this time what I'd like to hear from committee members is there any materials that you'd like to request from the Auditor General?

Darlene Compton.

**Ms. Compton:** So just so far we've discussed today a list of the members of the public records committee, and I might also suggest that we bring in a witness from ITSS to discuss with us how exactly this all works. I think we're all guessing. Some of us have more computer knowledge than others and systems knowledge than others,

but I think it would be – we keep going around in circles. Why not get someone in here from ITSS who can just walk us through what the procedures are? Because I think depending on what department you're with, there's maybe some different ideas; and who were the records management liaison officers at the time? Those are the things that I have down as far as requests.

**Chair:** Okay, that's it?

Jordan Brown.

**Mr. J. Brown:** I was actually going to make a motion that we get – I'll put it to you this way: I was thinking that we go to Minister Currie and ask him to have the appropriate individuals come in to explain both the process that involves deleting or the whole piece of it, and then if they feel that we still need somebody from ITSS because – and I don't mean this in any way to be offensive to you folks, I think you did a pretty good job of explaining it – but I'm still left confused as to what happens and how it happens and what the forms look like and stuff like that.

I think it would make sense if the Auditor General can't come if we could see if we could get them for the February 1<sup>st</sup> meeting so that it's kind of timely. Anyway, that was my thought. Start with them and see if they can explain it, because it is their job, I think, based on what I understand, and then go from there.

**Mr. Palmer:** Including the minister who's ultimately responsible.

**Mr. J. Brown:** I think you'd ask the minister to come with whatever staff he feels he needs to explain it.

**Chair:** Okay. Well, I can certainly put the motion forward. I don't know if we need a motion in particular, but –

**Mr. MacKay:** Chair.

**Chair:** Just one moment, Matt. I don't think we necessarily need the minister. There are – the provincial archivist is there, and/or somebody from ITSS. We have the Auditor General and Jennifer here today as well, and they've explained it the best they can. I don't think getting the minister of education

in here to try to explain to us is going to get really where we need to be because –

**Mr. J. Brown:** (Indistinct)

**Chair:** – he’s not an expert in IT, so why don’t we bypass that? I don’t have a problem with sending a letter to the minister requesting those appropriate professionals to come in to brief us.

**Mr. J. Brown:** I’m not trying to split hairs. I was just saying let’s send the letter to the minister and say: Can you please get who we need to come and explain this to us?

**Chair:** Yeah.

**Mr. J. Brown:** And if he wants to come with them, great. If he doesn’t, great. It doesn’t really bother me one way or the other.

**Ms. Compton:** Chair.

**Chair:** Just a moment, I had somebody over here.

Matt.

**Mr. MacKay:** This is just a suggestion, Chair, but the questions I guess we asked regarding ITSS to the auditor, she’d stated three people that gave her the same answer. I think that’s the appropriate way to go is to bring the three people that are professionals on it that the Auditor General’s already interviewed and get the information from them direct and the explanation with them. I think that would be the best solution.

**Mr. J. Brown:** I think the – if I can just address that –

**Chair:** Go ahead.

**Mr. J. Brown:** The reason I think – I’m not interested, again, in auditing the auditor’s work or anything like that. As much as anything, I want the explanation of what this is from people that that is their job. Like the records and archives people, that is their job; and I appreciate, as Steven said, there’s ITSS people that are involved in this. I don’t personally know what their role is, but I guess why I’m saying let’s start with the minister and tell him to bring the people that can explain this and we can go from there. I

also understand they’re developing a new policy, so we could probably ask questions on that at the same time, contrast this vs. that kind of thing, so –

**Chair:** Okay.

**Mr. J. Brown:** Anyway, that’s (Indistinct)

**Chair:** Darlene.

**Ms. Compton:** Just on that, I think it’s important we have ITSS as part of this picture because they’re the people that go ahead and delete or disable or disarm or whatever we’re going to call it. If the minister’s here, that’s great. I’m assuming he has a slightly better working knowledge of this then we do; but he doesn’t come from that background, so I think it’s important that we do have people from ITSS. The AG has already interviewed people about this, so it’s all part of the process.

**Chair:** Okay.

**Mr. J. Brown:** Maybe we can get both. Maybe they can both come to the same meeting.

**Chair:** So you’re suggesting ITSS and the archivist?

**Ms. Compton:** (Indistinct)

**Mr. J. Brown:** I guess my point is I think we should send a letter to the minister and say: Look, we want to have this explained to us and generally have the appropriate people to talk about it. And maybe suggest that that be people from the archives who administer the *Archives and Records Act*, including any ITSS officials that would be involved in it.

**Chair:** No, ITSS – correct me if I’m wrong, but ITSS does not fall under –

**Mr. Myers:** That’s finance.

**Chair:** – the responsibility of the minister of education.

**Mr. Myers:** No, it’s finance.

**Chair:** It’s finance, yeah.

Darlene, you had –

**Ms. Compton:** No, I'm good.

**Chair:** Chris?

**Mr. Palmer:** Thanks. I'm not interested in auditing the auditor, but the part I'm interested in is IT shared services, an update on their new policy that can address where we are. I don't know if that's record management people is different than IT shared services is different than the department, I don't know. Whoever is creating that new policy or the new architecture maybe – I don't know what the right word is for it, but the new system – that's what I'd like to hear about.

**Chair:** Okay.

**Mr. Palmer:** So we can avoid (Indistinct) –

**Chair:** If I could, I would like to suggest that we send a letter – and it can be sent to both the minister of finance and the minister of education, because ultimately the responsibility lies between those two individuals – and I'm not downplaying what you're asking for, Chris, in any way, shape or form, but I think the root issue here today that we've all struggled with to a certain degree is what does closed, disabled, deleted, deleted-deleted-deleted, what is the definition of that and how does that actually work?

So I think to get to the bottom of that first, we need the ITSS people here, and potentially the public archivist, and then if we feel we need to get an update on where the government currently is with development of the new policy, we can go down that road after. Does everyone agree?

**Mr. Palmer:** Sure.

**Chair:** Okay.

**Mr. J. Brown:** I don't know that I don't agree, but I just – so everybody understands, the reason I was saying archivist at the first in that group is back to Steven's comment that ITSS is a service provider.

**Chair:** Service provider, yeah.

**Mr. J. Brown:** So I don't – I guess the question I'd have in my mind is go to the people first that, and presume I guess that

they understand what they're asking the ITSS people to do and get that so –

**Chair:** One should never presume.

**Mr. J. Brown:** I agree with that and that's why I'm saying let's get them in first, though, to see what they know and can explain to us because I think that's the big thing. We need the explanation from a common sense perspective, and no offence to the couple of IT professionals that we have around the table, but I need something I can understand and not something that you guys can understand, in fairness.

**Mr. Trivers:** Says the lawyer.

**Mr. J. Brown:** Yeah.

**Ms. Compton:** (Indistinct)

**Chair:** Oh. This could turn nasty so we're going to wrap things up here now.

I'd like to then propose that we will have the clerk draft a letter and it be sent to both minister of education and Minister of Finance requesting that they make available expert witnesses from ITSS and the provincial archivist's office for Wednesday, February 1<sup>st</sup>, for 10:00 a.m. to give us an overview and update us here on what all of this terminology and definitions mean.

Agreed? Thank you.

**Mr. J. Brown:** Can we add to that to talk to their new policy? Do we want to do that at the same time?

**Chair:** I don't know if we'll have time at that time.

**Mr. J. Brown:** I guess the only thing I was saying is (Indistinct) –

**Chair:** Well yes, the public archivist could give us a briefing on that, yes, and update us on the government's –

**Unidentified Voice:** Initiatives.

**Chair:** Initiatives, thank you.

**Clerk Assistant and Clerk of Committees:** You'll get a draft of that, of course.

**Chair:** Perfect.

Okay, so, confirmed next meeting January the 25<sup>th</sup> with the Auditor General here in the committee room at 10:00 a.m.

Is there any new business to be brought forward at this time?

**Ms. Compton:** Yes.

**Chair:** Ms. Compton.

**Ms. Compton:** Thank you.

I would like to move a motion that the committee invites Garth Jenkins, Paul Jenkins, Melissa MacEachern, Chris LeClair and Tracey Cutcliffe before this committee to talk about the origins of egaming and that initiative and the role they played. The Auditor General has stated that this –

**Mr. J. Brown:** Can we hold on for a second?

**Chair:** Hang on just one moment.

**Clerk Assistant and Clerk of Committees:** If I may, the committee has made a number of motions over the past months to bring in certain witnesses and the committee has made its decision on those.

**Mr. J. Brown:** Can I exit stage left before we officially for the record, before we address –

**Chair:** Oh, okay, yes because the Jenkins (Indistinct)

**Mr. J. Brown:** Thank you.

**Chair:** Thank you, Jordan.

**Mr. J. Brown:** Hal probably should be called back, too, before we get into that.

**Chair:** That's a good point. Could somebody contact – try to reach out to Mr. Perry to see if he's in the vicinity to join us?

**Clerk Assistant and Clerk of Committees:** Did you want me to do that, Mr. Chair? Will we take a moment and I'll see if I can reach him?

**Chair:** Certainly.

**Clerk Assistant and Clerk of Committees:** We'll just take a five minute recess and I'll see if I can reach him. Thank you.

**Chair:** Yes, five minute recess – a short five minute recess.

[Recess]

**Chair:** Ladies and gentlemen, we will call this meeting back to order. Apparently Mr. Perry is not locatable at the moment so we'll move forward.

At present, Darlene had a motion that she was proposing and the clerk was making reference to – go ahead.

**Clerk Assistant and Clerk of Committees:** Thank you, Mr. Chair.

The committee has made a number of determinations as to its witness list over past meetings and some of the names – in fact, I can go through all of them – that have been defeated are: Doug Clow, Michael Mayne, Neil Stewart, Wes Sheridan, Robert Ghiz, Brian Douglas, Richard Gallant, Melissa MacEachern, Robert Vessey, Minister Henderson, Garth Jenkins, Paul Jenkins, Chris LeClair and Melissa MacEachern.

The committee has decided that it will hear from Minister Allen Roach at the conclusion of a certain amount of work and the committee is also considering the request for the appearance of the hon. Heath MacDonald. That's just an update as to the determinations of the committee to date.

**Ms. Compton:** Chair?

**Chair:** Go ahead, Darlene.

**Ms. Compton:** We heard from the Auditor General today because we're asking about the emails that were deleted and she said this is a highly unusual case because there really are not that many government documents to support the decisions that were made. This is one reason that I bring the names forward and another reason is because I do not believe, and I stand to be corrected, that Garth Jenkins was interviewed by the Auditor General about his role in this.

We've got a number of people here who I think could shed some light, because there

were emails deleted, that could shed some light on the processes they went through to make the decisions they made; and because it's a highly unusual case as the Auditor General said, we do not have the information that we need because there were not government documents and the emails were deleted. That's my argument behind making this motion again.

**Chair:** As committee members you certainly have the right to put a motion forward. Madam Clerk, you had mentioned that that had already been rescinded from a previous motion, but I guess my question would be –

**Clerk Assistant and Clerk of Committees:** Procedurally?

**Chair:** If you had a motion and it was voted on and agreed by the majority of the committee, and then the following week the committee comes back and completely reverses that decision, what would stop this committee then many weeks later to come back after gaining potentially new information to say: We're going to look at a motion of bringing some of these witnesses forward again?

**Clerk Assistant and Clerk of Committees:** Absolutely, and procedure of course is not here to hogtie you. As committee members, procedure is to help you do your business in an orderly fashion. If the committee feels as a majority that it wishes to overturn previous decisions it's made, absolutely within your right to do so. Those were simply the most recent decisions that had been made. Those were the ones that I read out to you.

**Chair:** Thank you, Madam Clerk.

Chris.

**Mr. Palmer:** I just wanted to say that I'm not here to audit the auditor. I didn't think that's what we're here for; and on January 11<sup>th</sup>, the Auditor had told us: "For us to complete our work..." – and I'm reading from the notes – "For us to complete our work and issue the report, the work that we did was sufficient in terms of who we interviewed and the questions that we asked." She's already told us that she's happy with it and I'm certainly not here to audit the auditor.

**Chair:** Ms. Compton.

**Ms. Compton:** I am not here to audit the auditor, but she made it quite clear today that this was an unusual report for her to do, and the reasoning behind that was because there was not a lot of government documentation there. Thus the importance of the emails that were disarmed or disabled or deleted or whatever they were, the importance of whose which we do not have.

Again, my argument is because of the comments she made today, it brought to light to me the fact that it's important that we hear from some of these people, including Garth Jenkins because Paul Jenkins and Garth Jenkins were instrumental in this, we have to say, because their names keep coming up, and Garth Jenkins was not interviewed by the Auditor General. So those are the reasons that I move a motion, again, to bring those people forward.

**Chair:** Sonny Gallant.

**Mr. Gallant:** Thank you, Mr. Chair.

I don't believe that we need to redo the Auditor General's report, and all due respect to Ms. Compton's –

**Mr. Myers:** That wasn't the motion.

**Ms. Compton:** (Indistinct)

**Chair:** Okay, (Indistinct) yeah –

**Mr. Gallant:** I can speak.

**Chair:** Yeah (Indistinct)

**Mr. Gallant:** I'm speaking.

**Mr. Myers:** Did he say that's the motion, though?

**Chair:** Steven, he has the floor and then I'll give you an opportunity after.

**Mr. Myers:** Ridiculous, Sonny, you know it is.

**Mr. Gallant:** Thank you, Mr. Chair.

I don't really think we need to go on a witch hunt, and we made the motion and it was defeated last time. The Auditor General

spent a lot of time on her report. We've asked questions here again today that we've asked last meeting. We're to go forward now. Some of the people don't work in government anymore –

**Mr. Myers:** Didn't talk the whole meeting and you come in here to block. Your only time talking today –

**Chair:** Okay, Steven.

**Mr. Myers:** – is you're going to block –

**Chair:** Steven.

**Mr. Myers:** – the business of the committee.

**Chair:** Steven.

**Mr. Myers:** It's ridiculous, Sonny.

**Mr. Gallant:** Is this not partisan, or what?

**Mr. Myers:** What partisan? What (Indistinct) –

**Mr. Gallant:** I have the floor, sir.

**Mr. Myers:** You sat there and said nothing the whole meeting –

**Mr. Gallant:** I have the floor. Don't try –

**Mr. Myers:** (Indistinct) question. Never even asked a question. I sat here for all (Indistinct) –

**Mr. Gallant:** I asked questions today.

**Mr. Myers:** (Indistinct)

**Mr. Gallant:** Don't try to bully me, Mr. Myers. Okay?

**Mr. Myers:** (Indistinct)

**Mr. Gallant:** I have the floor. Okay?

**Chair:** All right. Sonny, you have the floor. Speak to the Chair, please.

**Mr. Gallant:** Anyway, I will not be supporting this motion.

Thank you, Mr. Chair.

**Chair:** Is there any other discussion on this motion?

Okay, no further discussion. Clerk, would you like to please –

**Clerk Assistant and Clerk of Committees:** I actually do need the list of names, I'm sorry.

**Chair:** Darlene?

**Clerk Assistant and Clerk of Committees:** I apologize, I had just left the table to make a phone call and I didn't get the full motion down, if you don't mind.

**Ms. Compton:** Garth Jenkins –

**Clerk Assistant and Clerk of Committees:** I appreciate it.

**Ms. Compton:** – Paul Jenkins, Melissa MacEachern, Chris LeClair and Tracey Cutcliffe.

**Clerk Assistant and Clerk of Committees:** I'm just going to read them back to you before I read them out: Garth Jenkins, Paul Jenkins, Chris LeClair, Tracey Cutcliffe. Have I missed one?

**Ms. Compton:** Melissa MacEachern.

**Clerk Assistant and Clerk of Committees:** Melissa MacEachern, thank you so much.

The motion that's in front of the committee is essentially to rescind your previous determinations on the names of these witnesses and indeed bring them in to speak to the committee. Those potential witnesses would be Garth Jenkins, Paul Jenkins, Chris LeClair, Tracey Cutcliffe and Melissa MacEachern.

**Chair:** I'll ask for a show of hands. All those voting in –

**Mr. Palmer:** Before we do that, can I amend that motion or – I guess I don't understand the procedure, so I'd like to – could we add a piece to say "in an effort to redo the auditor's work."

**Ms. Compton:** (Indistinct)

**Mr. Palmer:** And then put it in?

**An Hon. Member:** No.

**Some Hon. Members:** (Indistinct)

**Ms. Compton:** Absolutely not.

**Some Hon. Members:** (Indistinct)

**Mr. Palmer:** We can't put that in? Okay.

**Some Hon. Members:** (Indistinct)

**Chair:** Completely redundant.

**Mr. Palmer:** Okay.

**Ms. Compton:** I think (Indistinct)

**Chair:** Again, we'll vote on this motion now. All those in favour of the motion, please signify by raising your hand.

I see Darlene Compton, Peter Bevan-Baker.

All those against this motion, please indicate by showing your hand.

Bush Dumville, Sonny Gallant and Chris Palmer. Motion is defeated.

Is there any new business in addition to what was just discussed?

There being no further new business, I would call for a motion of adjournment, please.

**Mr. Dumville:** (Indistinct)

**Chair:** Bush Dumville, thank you very much.

The Committee adjourned