# ANNUAL REPORT

# 2007

# OFFICE OF THE
# INFORMATION AND PRIVACY COMMISSIONER

# PROVINCE OF PRINCE EDWARD ISLAND


# REPORT OF THE

# INFORMATION AND PRIVACY COMMISSIONER

# FOR THE

# PROVINCE OF PRINCE EDWARD ISLAND

## 2007

November 12, 2008

The Honourable Madam Kathleen M. Casey
Speaker of the Legislative Assembly
Province of Prince Edward Island
P.O. Box 2000
Charlottetown, PE
C1A 7N8

Dear Honourable Madam Casey:

I am pleased to submit the enclosed Annual Report of the Office of the Information and Privacy Commissioner for the period January 1, 2007 to December 31, 2007, pursuant to subsection 59(1) of the *Freedom of Information and Protection of Privacy Act.*

Respectfully,

Karen A. Rose
Former Acting Information and Privacy Commissioner

enclosure

KAR/ms

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# FROM THE INFORMATION AND PRIVACY COMMISSIONER

## Looking Back

This is the fifth annual report of the activities of the Office of the Information and Privacy Commissioner to the Speaker of the Prince Edward Island Legislative Assembly. The position of Information and Privacy Commissioner has been an acting position since May, 2006. In the absence of the incumbent Commissioner, we have strived to maintain the quality of service the citizens of Prince Edward Island expect and deserve.

In 2007, we were able to overcome the backlog of reviews and investigations which had faced us in 2006. Through ongoing communications with applicants, complainants and public bodies, and through the issuance of seven orders, all reviews and investigations are now current.

Throughout 2007, our office continued to focus its full efforts on upholding the spirit and intent of the *Freedom of Information and Protection of Privacy Act (*the "FOIPP Act"). During the five years this office has operated, our interactions with the various provincial public bodies continue to increase. With each review comes an opportunity to enhance a culture of access throughout the provincial public service. I wish to commend the government's Access Coordinator for her valued services in working toward this goal. In addition, I wish to recognize the essential contribution of our provincial FOIPP coordinators, whose role I will discuss more fully below.

***Right to Know Week:***

"Right to Know Week" in Prince Edward Island was proclaimed by the Attorney General for the first week of October, 2007. Essay-writing contests were held at the high school and undergraduate levels, and a poster contest was offered to students of the Graphic Arts Program at Holland College. The essay-writing contest netted a thought-provoking submission. The first-place essay is posted on our website.

***Jobs for Youth:***

In 2007, we took advantage of the PEI Development Agency's "Jobs for Youth Program". We benefitted greatly from the talents of Media/Promotions Assistant Jenna MacMillan, who performed all the groundwork in organizing our 2007 Right to Know Week, including the creation and distribution of the essay-writing contest posters. Through her interactions with a graphic design student, we were able to see our much-anticipated logo begin its development. In addition, Ms. MacMillan made the initial amendments required to improve our website.

***Website:***

With restricted time, we were able to take small but significant steps in the enhancement of our website. We added our new logo to the website, and we are in the process of receiving an independent website domain for easier public accessibility.

***Budget:***

As reported in 2006, the resources of this office are modest, and promotion of the FOIPP Act is challenging under these circumstances. We continue to make our best efforts to operate this office in a fiscally responsible manner. Our office budget may be reviewed at page 167 of the *Estimates of Revenue and Expenditures 2008*. In 2007, our total expenditures for the fiscal period of April 1 to March 31, 2008 amounted to $97,079.00.

## Looking Ahead

As we reported in our 2003-2004 annual report, the FOIPP Act will undergo a substantial review in 2008. When the Standing Committee on Economic Development conducted a review of the FOIPP Act in 2004, the Commissioner appeared before the Committee and made several recommendations of an administrative nature relating to changes to the FOIPP Act. These changes were subsequently made in 2005. The Commissioner had also urged caution in making substantive changes to the legislation (that was a mere two years old at that time), especially any changes which would relax the privacy obligations of public bodies.

On December 1, 2004, the Standing Committee on Economic Development submitted its report, making five recommendations, including the following:

> That a review of the *Act* be conducted in three years' time to allow the Public Bodies, the Office of the Information and Privacy Commissioner and other interested parties sufficient opportunity to make decisions regarding possible amendments.

This three-year review provision was added to the FOIPP Act in 2005 as section 73. We look forward to a full review.

In 2008, we will continue attending to our responsibilities as set out in the FOIPP Act and as discussed in this annual report. We will also continue to benefit from our attendance at federal/provincial/territorial conferences to better understand and seek solutions to access and privacy issues common to many Canadian jurisdictions. We look forward to promoting and increasing public awareness of access issues during the 2008 Right to Know week.

## Access Focus

***FOIPP Coordinators - The Heart of Access to Information*:**

*What is a FOIPP Coordinator*

Each public body has a person designated to respond to access requests under the FOIPP Act. This person has the title of FOIPP Coordinator. Depending upon the particular public body, the FOIPP Coordinator may either be extremely active, or not active at all. For this reason, the FOIPP Coordinator's position is often added to other duties of a public body employee, sometimes at the director level. In addition to their freedom of information obligations, the FOIPP Coordinator is also tasked with responding to queries and concerns from the public regarding the privacy of citizens' personal information. These dual tasks require extensive knowledge of the FOIPP Act and of fair information practices.

The FOIPP Manual used by FOIPP coordinators throughout this province is also referred to by the Information and Privacy Commissioner from time to time. It defines the role of FOIPP Coordinator more precisely at pages 18 to 20, as follows:

> . . . The FOIPP Coordinator is responsible for overall management of the freedom of information and protection of privacy function within a public body. Depending on the size and resources of the public body, the Coordinator may carry out his or her responsibilities on a full-time or part-time basis. Some FOIPP Coordinators might share services for several public bodies. The FOIPP Coordinator's office should provide the focal point for freedom of information and protection of privacy expertise within the public body. Details of the responsibilities of this office throughout this publication represent a typical delegation of tasks. Public bodies may find that a different distribution of responsibilities is appropriate for them.

The responsibilities might include:

- implementing policies, guidelines and procedures to manage the public body's compliance with the provisions of the *Act*;
- providing advisory services to the staff of the public body;
- developing and delivering training programs on freedom of information and privacy protection within the public body and coordinating participation in FOIPP courses offered by the Government of Prince Edward Island;
- informing the public body's clients, and all those with which it does business or provides services, about the *Act*;
- advising senior management on information that can be released without a FOIPP request;
- managing the FOIPP request process for the public body, which may include:
    - assisting applicants,
    - assigning requests to program areas,
    - monitoring and tracking the processing of requests,
    - meeting time limits and notification requirements,
    - considering representations from third parties,
    - calculating fee estimates and collecting fees,
    - reviewing preliminary recommendations from program areas, sections or organizations about the release of records and proposals for severing information,
    - making final recommendations on responses to requests, and
    - responding to applicants;
- ensuring that the privacy protection measures in Part 2 of the *Act* are implemented and carried out on an ongoing basis;
- coordinating any negotiations, mediations, inquiries, investigations, and audits with the Office of the Information and Privacy Commissioner;

- ensuring consistency in the application of other Acts and regulations which relate to the prohibition or restriction on the disclosure of information (section5);
- reporting as required to the Ministry responsible for FOIPP on the operation of the *Act*;
- maintaining a list of the public body's affiliated agencies for the purposes of Schedule I of the FOIPP Regulations; and
- consulting with the Ministry responsible for FOIPP regarding any legislative developments or amendments in other legislation that might relate to FOIPP.

*What Qualities Make the Best FOIPP Coordinator*

Our office has identified essential competencies for a FOIPP coordinator in order for him or her to carry out their professional obligations under the FOIPP Act in the most effective and efficient way. These competencies include the following:

1. *Superior Communication Skills* - a FOIPP coordinator is required to communicate effectively with applicants who seek access to information and persons who are concerned about the privacy of their personal information held by a public body. In addition, a FOIPP coordinator must communicate with other employees of the public body, not only to explain the FOIPP Act obligations which may not be familiar to them, but also to communicate accurately the types of records a given applicant may be seeking so that the records may be searched for by the appropriate employee.

2. *A Broad Understanding of the Types of Records Held by the Public Body* - a FOIPP coordinator is often the first person an applicant contacts. An applicant expects a FOIPP coordinator to know whether the records he or she seeks are

available through routine access, through a formal access request, or not at all. A knowledgeable FOIPP coordinator would be able to refer an applicant to another public body who may have custody or control of the records the applicant seeks. Such knowledge saves the applicant and the public body time.

3. *An Accurate Understanding of the Public Body's Obligations under the FOIPP Act* - this includes familiarity with the forms and letters that have become standard to the access process within the Government of Prince Edward Island. It also includes an obligation to protect the privacy of the person applying for access to information; this obligation is sometimes overlooked .

The competence of FOIPP coordinators varies. This office has had the pleasure of dealing with professional and knowledgeable FOIPP coordinators, but we have also experienced disappointment at the apparent unfamiliarity some FOIPP coordinators have of the tasks appointed to them. FOIPP coordinators serve as front-line representatives of public bodies and, as such, their knowledge and actions reflect strongly upon the particular public body they represent.

*Grading Public Bodies*

Following in the footsteps of the federal Information Commissioner, the British Columbia Information and Privacy Commissioner has recently decided to implement a public report card system to assess the performance of public bodies relating to freedom of information and/or privacy obligations, as the case may be. This office will be watching the British Columbia office closely in order to evaluate the success of its pilot approach and to decide whether our office should emulate it. If we decide to take such an approach in future years, the activities of FOIPP coordinators will be crucial to our evaluation of each public body.

## Privacy Focus

***The Drug Information System***:

The year 2007 marked the establishment of the Drug Information System by the Department of Health for Prince Edward Island. The Drug Information System (the "DIS") is a computerized network providing pharmacists, physicians and other authorized health care professionals with secure access to electronic medication profiles for all patients in Prince Edward Island.

The usefulness of the DIS to modern health care is apparent. As a representative of the Department of Health has stated, "We have come a long way from the time when citizens had one corner apothecary to purchase all of their medications." Today, with so many drug stores available, many people simply visit the establishment that is most convenient for them to go to on a given day. In addition, as people see more physicians, including family doctors, specialists, and those attending at evening and weekend clinics, doctors have had to rely more and more on a patient's verbal history; such history is not always accurate.

The DIS should reduce prescription errors substantially and allow physicians and pharmacists to provide better service. These goals are certainly important, but these positive ends need to be balanced with an Islander's right to privacy of personal health information. The Department of Health has been cognizant of this important need and has addressed it throughout the development of the DIS.

*What Personal Information is Collected, Used or Disclosed by the DIS*

The information contained in the DIS database consists of basic personal information such as the patient's name, address and date of birth. Other personal information includes the patient's eligibility for the provincial drug program, drug dispensing history, drug allergy/intolerance/adverse reaction information and, of course, incoming prescriptions.

The *Pharmaceutical Information Act* (the "PhI Act") was proclaimed in 2007. It contains a general paramountcy clause over the FOIPP Act at section 1.1, that reads as follows:

> 1.1 If a provision of this Act or the regulations made under this Act is inconsistent with or in conflict with a provision of the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01 or the regulations made under that Act, the provision of this Act or the regulations made under this Act prevails to the extent of the inconsistency or conflict.

This means that in cases where a provision of the PhI Act is inconsistent with the FOIPP Act, the PhI Act is the Act to follow. While paramountcy of any new legislation over the FOIPP Act is a serious concern of our office, I do note that some basic protection for personal information appears to be addressed by the PhI Act; for example, section 3 requires that the use of the information in the DIS is limited to the uses set out in the PhI Act. This is a significant section from a protection of privacy point of view. From an information security point of view, the DIS is password-protected, and anyone with access to the DIS will be required to sign a confidentiality agreement. In addition, violating the PhI Act garners penalties from $15,000 to $50,000, indicating to the public and to users of the system that our citizens' personal health information is to be staunchly protected.

Although the Minister of Health is charged with the responsibility of investigating complaints, there is also an advisory committee that is charged with providing advice about the protection of information. This committee is made up of six nominees, including one layperson. A careful selection of committee members will go a long way to ensuring the continued attention to health information privacy that will be necessary to maintain patient trust and, ultimately, the long-term viability of the DIS itself.

*Continued Monitoring by the Office of the Information and Privacy Commissioner*

A comprehensive Privacy Impact Assessment was conducted at appropriate stages during the development of the DIS by an independent contractor. Following the recommendations provided in the Privacy Impact Assessment has been a starting point for the Department of Health. The Office of the Information and Privacy Commissioner expects that there will be regular audits of the DIS and ongoing training for users of the system. Continued public education will also be necessary so that Islanders understand why their personal information is in the database and how it will be protected. This will include notices at pharmacies and other collection areas identifying the purposes for which the personal information is collected, as well as the authority for collecting the information.

Fair information practices also require that there be processes in place for Islanders to access their own personal information in the DIS and make corrections if needed. We expect the efficiency of such processes to be audited regularly. Finally, it will be necessary to ensure that the DIS continues to collect only that personal information that is necessary to carry out its purposes.

***Personal Health Information Protection Legislation:***

As is evidenced by the privacy-sensitive approach to pharmaceutical information, most citizens would consider their personal health information to be among their most private information, requiring protection by those who have care and control of it. Creating an electronic health record for all Prince Edward Islanders and, indeed, for all Canadians, is a technological feat that is moving closer to reality. To ensure that appropriate safeguards are in place, as well as oversight of such safeguards by an independent body, many provinces have passed, or are planning to pass, personal health information protection legislation.

The provinces of Manitoba, Alberta and Saskatchewan have had personal health information legislation for some time, and Ontario adopted the *Personal Health Information Protection Act* in 2004. The Atlantic provinces are also coming on board; Newfoundland and Labrador has drafted legislation yet to be passed, and New Brunswick and Nova Scotia have drafted health information bills for public consultation. This legislation should enable citizens to exercise control over who has access to their personal health information and under what circumstances. As pointed out in a Nova Scotia discussion paper found at www.gov.ns.ca/health/phia/, it should also resolve the conflicts which arise when many different pieces of legislation purport to perform the same task of protecting personal information.

We strongly encourage the Legislature to take on the complex task of determining the most effective statutory means of balancing the need to protect the privacy of Islanders' health information with effective health care itself.

# PUBLIC BODY FOCUS:

## WORKERS COMPENSATION BOARD AND WORKERS COMPENSATION APPEALS TRIBUNAL

Last year our annual report focused on one particular public body, drawing attention to the challenges which we observed that it has faced. This year we continue this practice with a focus on the Workers Compensation Board (the "WCB") and the Workers Compensation Appeals Tribunal (the "WCAT"). The WCB and the WCAT face challenges both from a freedom of information point of view and a privacy standpoint. Over the years, this office has had 14 files opened relating to the WCB or the WCAT. While several files were resolved, some also resulted in orders. To show a snapshot of the access and privacy issues faced by the WCB and the WCAT, we provide a brief summary of these orders below.

***Freedom of Information Orders***:

In 2003, two orders were issued relating to the WCB. Order No. 03-001 concerned the calculation of fees by a public body and the right of an individual to apply for a fee waiver in certain circumstances. The Applicant had made ten access requests under the FOIPP Act to various public bodies for various records and requested fee waivers in each of the ten cases. All ten requests for a fee waiver were denied. The Applicant had disputed the calculation of seven of the ten estimates provided by the various public bodies, but not the estimate of the WCB. The Commissioner confirmed the decision of the WCB to refuse the fee waiver requested, due to the fact that the records did not relate to a matter of public interest.

In Order No. 03-004, the Applicant had made a request to the WCB for access to an alphabetical listing of all employees of the WCB, including salary and job title. The WCB provided the Applicant with a partial response to this request; namely, the position titles and salary ranges. The WCB denied the Applicant access to the names of employees and their specific salary based on section 15 of the FOIPP Act. Following the review process, the Commissioner found that job titles and salary information constitute personal information in accordance with its definition under the FOIPP Act. The Commissioner also concluded that disclosure of the job titles and salary information with the names of the employees would constitute an unreasonable invasion of the personal privacy of the employees. The Commissioner found that the WCB had properly applied section 15 of the FOIPP Act in its decision to disclose only the job titles and salary ranges of its employees and not the employees' names and exact salaries. Upon judicial review by the Supreme Court of Prince Edward Island this order was affirmed.

The Commissioner also issued two orders involving the WCB in 2005. Order No. 05-002 involved a request for records relating to the fees, retainers and any other monies paid to or on behalf of a doctor for work performed on behalf of the WCB. After making an initial decision to provide only partial access to the records, and to withhold the hourly rate and total amount paid for services, the WCB subsequently notified the doctor that it had reconsidered its decision and decided to release all of the information requested. Acting as a third party, the doctor filed a request for review with this office. The Commissioner found that disclosure of the information at issue was not an unreasonable invasion of the doctor's personal privacy. Based on an analysis of subsections 15(2) and 15(3) of the FOIPP Act, the Commissioner concluded that the WCB properly decided to disclose the records at issue in their entirety in compliance with both sections 14 and 15.

In Order No. 05-005, an applicant made a request to the WCAT for all of its written decisions dating back from 1995 up to the date of the request. Affected third parties, being those to whom the decisions pertained, were notified of the Applicant's request. One such third party applied for a review of the WCAT's decision to grant partial access to the records, severing identifiable personal information of the third parties based on section 15 of the FOIPP Act. Even though the Applicant was not seeking the personal information contained in the records, the Third Party wished to have the records withheld in their entirety. The WCAT argued that once the personal information of the Third Party was severed from the records, the remaining information did not constitute personal information, as it was not recorded information about an "identifiable individual". The Commissioner found that the WCAT properly applied sections 1 and 15 in its decision; however, the Commissioner attached a directive to the order requiring that certain other personal information be severed from the records in addition to the personal information that the WCAT had previously proposed to sever. In making this directive, the Commissioner considered the submissions of the parties, as well as the size of the small province that we live in, stating that sometimes a small amount of information can identify an individual under these circumstances.

In 2007, Order No. 07-002 was issued relating to the WCB and is summarized later in this report. Order No. 07-005 was also issued relating to the WCB, but it was found that the subject matter of the request had been dealt with in a previous order, and the Commissioner exercised her discretion to refuse to conduct an inquiry.

***Privacy Orders*:**

As noted above, the WCB is also tasked with the protection of personal information of its claimants. As a result, it continues to require a careful balance between access and privacy concerns. From an order standpoint, this office has issued two privacy orders. In 2004, Order No. PP-04-004, the Complainant alleged an improper collection and use of personal information. The Complainant was an injured worker and claimed that medical files were collected by the WCB without the Complainant's permission, and that the WCB used these files to discontinue benefits to the Complainant. The Complainant also alleged that the WCB disclosed the medical information without proper authority. The complaint arose when the WCB obtained the Complainant's complete medical file in the form of clinical notes from the Complainant's family physician and contained information the Complainant stated was unrelated to the workplace injury. The WCB's medical advisor severed any information that was not considered to be relevant to the adjudication process prior to the information being placed in the Complainant's file. The WCB argued that section 32 of the *Workers' Compensation Act* gives it exclusive jurisdiction to examine all matters arising under that legislation. In this case, the WCB disclosed MRI and CT films of the Complainant to a radiologist at the QEII Health Sciences Center for review. It stated that other types of potential disclosure of a worker's medical records could be given to the WCAT and the Supreme Court, if a worker appeals to those bodies, or to the employer, if a case is appealed. The WCB stated that the disclosure was consistent with the original purpose for collection, that being to determine the worker's entitlement to compensation benefits. The Commissioner found that the WCB was authorized by the *Workers Compensation Act* to collect the Complainant's personal information from third parties for the purpose of adjudicating the Complainant's claim only, and that the collection of personal health information from sources other than the Complainant was necessary to determine the Complainant's ongoing eligibility to receive workers' compensation benefits. The Commissioner also found that disclosing medical

information in order to obtain an independent medical opinion is consistent with the original purpose of collection. The Commissioner noted that, although the general rule is to collect personal information directly from the individual, the WCB must seek medical information from third party professionals who are knowledgeable about the injury claimed. Although no order resulted from this review, the Commissioner made two recommendations to the WCB for the future:

(i) that the WCB conduct regular audits of its privacy policies and, in particular, to ensure that no employee of the WCB has unauthorized access to clients' personal information; and

(ii) when the WCB plans to request a physician's clinical notes relating to a worker, the worker be notified beforehand.

In 2006, Order No. PP-06-002, the Complainant alleged that the WCB improperly disclosed personal information to the Complainant's former employer without consent. The Complainant was injured on the job several years previously. Six months following the injury, a WCB case manager notified the Complainant that he was ready for an ease-back program, but that his job was unavailable at that time due to a slowdown in the employer's business. The Complainant requested that the WCB share no further information regarding him or his case with that employer, and that no information be released by the WCB without his consent. Three years later, the Complainant wrote to an internal reconsideration officer ("IRO") of the WCB to request that his case be re-opened based upon new medical information. When the IRO responded to the Complainant's request, the correspondence was copied to the Complainant's former employer without the Complainant's consent. The WCB submitted that the IRO was following the procedure established under the authority of subsection 56(4) of the *Workers Compensation Act*, as the Complainant's former employer would still have an interest in a

decision affecting the claim. The WCB also stated that an employer has a direct interest in a decision made by the IRO to reopen a claim, as reopening a claim could have implications for the employer in returning a worker to the workplace, as well as in the assessment rate paid by it. The Commissioner found that the information in the letter, namely, the name and address, health care history and opinion information, falls under the definition of personal information in the FOIPP Act. The Commissioner also found that returning the worker to the workplace was no longer a factor in this particular case, and that subsection 56(4) of the *Workers Compensation Act* does not require any disclosure, nor does it authorize a disclosure of information. The Commissioner stated that the WCB had gone beyond its stated intention of "notifying" parties with a direct interest, noting that the Complainant's home address and the discussion regarding medical aid benefits from three years previous exceeded the requirements of notification. The Commissioner concluded that the disclosure of the letter at issue to the Complainant's former employer constituted an unreasonable invasion of the Complainant's personal privacy under section 15 of the FOIPP Act . The Commissioner emphasized that the Complainant specifically directed the WCB three years previously, in writing, not to release further information to this former employer. There was no evidence that the WCB replied to the Complainant's direction and, because the WCB did not reply, the Complainant was led to the conclusion that his request for reconsideration was supplied to the WCB in confidence pursuant to clause 15(5)(f) of the FOIPP Act. The Commissioner recommended that the WCB amend its reconsideration procedures such that the disclosure of personal information is limited to only the personal information that is necessary. In order to ensure a greater sensitivity to the Complainant's personal privacy, the Commissioner suggested providing general notification of reconsideration applications, rather than copying the full letters sent to the worker. The WCB was to provide a report within six months of the date of the order advising what steps were taken to carry out the recommendations set out in the order.

***Balancing Access with Privacy - Routine Disclosure*:**

As is obvious from reading the above order summaries, the WCB and the WCAT are faced with weighty responsibilities, not only with freedom of information obligations, but also with privacy protection of the personal information in their custody and control. One example that clearly illustrates the careful balance required between these two objectives is the publication of the WCAT decisions on the WCB website.

Three years ago, the WCB advised this office of its intention to have future WCAT decisions written in an anonymous manner by removing personal information of the subject claimant in order to enable it to provide public access to the decisions in a more efficient and effective manner. The written decisions were to be available online through the WCB website. This routine disclosure practice would provide an appropriate balance between public openness and protection of the privacy of its claimants.

The Information and Privacy Commissioner of British Columbia expanded on the topic of routine disclosure in Investigation Report F08-01. At paragraph 18 of this report, Commissioner Loukidelis set out guidelines for a good freedom of information program, including routine access to records of public interest, as follows:

> *[18]* ***2.4 Hallmarks of A Good FOI Program***
>
> *There are three key components to a well-functioning FOI program. All three components must exist, consistent with s. 6(1), to ensure that access requests are responded to openly, accurately, completely, and without delay. Those three components are:*
>
> 1. *Strong public body executive support and leadership in the area of access to information. This is in turn evidenced by well funded and well staffed FOI offices, ongoing access and privacy training programs for staff, regular messaging to all staff supporting the goals of FIPPA and by a streamlined and efficient request sign-off process.*

2. *The public body actively and regularly publishes, without formal access requests, records of interest to the public. This is known as routine release or pro-active release of records. At the very least, records such as program audits, financial audits, impact assessments, records previously released in response to access requests will be posted on the internet and otherwise made available as part of a well-functioning routine release process. As part of a successful disclosure program, program area staff should regularly review their records for posting and staff should be encouraged to identify records for pro-active release.*

3. *Records are disclosed in a timely fashion and, at least on average, within the initial 30-business day time limit set out under FIPPA. There are numerous strategies a public body can employ to ensure that it meets this goal, including these:*

   *- Have a fully staffed and well trained FOI office with strong support from the executive.*

   *- Make meeting the 30 day response time a performance objective of ministry executives.*

   *- Have trained records management staff in each branch ready to collect requested records as soon as a request is received.*

   *- Have regular access and privacy training for all existing staff and required access and privacy training for all new staff. Monitor the training using online testing.*

   *- Use a rational and consistent records management strategy across the public body. Preferably use a central filing system for both electronic and paper records.*

   *- Delegate as many decisions as possible to the Director/Manager of Information and Privacy and their staff.*

   *- Limit sign-off (approval) of decisions to no more than two people.*

   *- Do not include communications staff in the sign-off process. Create a parallel process that allows the ministry to manage communications issues associated with disclosure without interfering with the timely release of records.*

   *- When requests are for large numbers of records, release records in phases.*

*- Interpret requests in a manner that a fair and rational person would consider appropriate in the circumstances. Avoid overly literal or narrow interpretations of requests.*

*- Communicate regularly with applicants from the outset and throughout the processing of the request, particularly regarding the scope of the request and the scope of records available.*

***What's Ahead***

Routine disclosure policies are very useful tools for public bodies, as they save time and resources in responding to formal access requests, and they improve the transparency of activities of public bodies. Routine disclosure of decisions of administrative tribunals is becoming a more common practice. For example, in this office, all decisions of the Information and Privacy Commissioner are written so as not to identify the applicant or complainant, and they are placed on our website permanently no later than one week after issuance. To date, the WCB website has published WCAT decisions numbered 31 to 55, with dates spanning from July 15, 2005 to June 14, 2007. Personal information of claimants has been appropriately removed from these decisions; however, the delay in publication has been too long. The Office of the Information and Privacy Commissioner expects that the WCB and the WCAT will update the publication of the WCAT decisions and publish future decisions online in a much more timely manner.

## SUMMARY OF SELECTED ORDERS

### Freedom of Information

***Order No. 07-002 - WCB - Board of Directors Schedules re Meetings/Per Diems:***

In Order No. 07-002, an applicant had requested several categories of information relating to board members of the Workers Compensation Board (the "WCB"). A third party board member responded to the WCB advising that they were agreeable to the disclosure of much of the information, but they did not agree with the disclosure of their actual per diem claim forms. These forms indicate dates of meetings, conferences and seminars, the per diem amount and the total amount paid, and some handwritten notes stating whether meetings were attended on a specific date.

The Third Party requested the Commissioner to review the decision of the WCB to release the per diem claim forms, stating that the forms are personal information, and that disclosure would be an unreasonable invasion of board members' personal privacy.

*Section 14*

The Commissioner found that the records at issue do not reveal labour relations information, or any other business information described in clause 14(1)(a). Further, the Commissioner found that the information in the records at issue was not supplied in confidence. The Commissioner stated that the Third Party had fallen far short of proving a genuine and conceivable likelihood of harm by the disclosure of the records at issue. The Commissioner concluded that the head of the WCB correctly applied section 14 of the FOIPP Act in reaching the decision that the records at issue should be provided to the Applicant.

*Section 15*

The Commissioner accepted the WCB's submission that the meeting information does not constitute "personal information" in accordance with the FOIPP Act. Even if this were not so, the Commissioner stated that since it is an integral part of a board director's duties to attend regular meetings of the board, attendance at meetings easily fits into the definition of "employment responsibilities".

As for the Third Party's name and signature, the WCB conceded that these are personal information. In light of this concession, the Commissioner moved on to the parties' arguments relating to financial information, name and signature.

The Commissioner considered the Third Party's submissions that they support the release of meeting minutes on the WCB's website, and that a review of the records at issue without the background of such minutes does not give the Applicant a full context. The Commissioner pointed out that viewing the records at issue in isolation from other facts is not a valid exception under the FOIPP Act; nor, in the Commissioner's view, should it be. The Commissioner added that disclosure of such records fulfills the FOIPP Act's goal of open access, but it is not for the WCB or the Third Party to decide which information the Applicant should be seeking.

The Commissioner also considered the Third Party's argument that sufficient disclosure had already been made by the WCB. While the Commissioner agreed that the WCB had made general information available, the Commissioner found that there was information lacking in order to properly respond to the Applicant's access request. The Commissioner reiterated that the public has an interest in knowing whether board members attend the meetings, as the meetings form a large part of the responsibilities of the board members. The Commissioner suggested that the public may also have an interest in knowing what expenses are claimed by board members in carrying out their duties.

Finally, the Commissioner considered the Third Party's submission that the WCB "dissected" the per diem forms to reach the conclusion that the forms are not personal. The Commissioner found that the WCB was correct in its approach, that its analysis was thorough and exhaustive, and that the WCB properly came to this conclusion upon a consideration of all factors.

In making her order that the WCB had acted properly, the Commissioner concluded that disclosure of the records at issue would support the ideal of openness and accountability of the WCB, being the foundation that the FOIPP Act is based upon.

***Order No. 07-003 - EEF - Report of Recommendations to Minister re Pesticides:***

In Order No. 07-003, the Applicant made a request to the Department of Environment, Energy and Forestry (the "EEF") for access to a copy of a report by an implementation committee to the Minister of Environment entitled "Recommendations for Regulation of Pesticides in PEI". The head of the EEF denied the Applicant's request for access to the information, basing his decision on clause 22(1)(g) of the FOIPP Act: that the information requested "relates to advice, proposals, recommendations, analyses or policy options developed by or for a public body or a member of Executive Council."

*Section 22 Exception*

The question to be determined by the Commissioner in this review was whether the head of the EEF properly exercised his discretion in applying clause 22(1)(g) of the FOIPP Act to the record at issue and refusing access to it.

The purpose of the section 22 exception has been well-established by the Alberta Information and Privacy Commissioner to enable candid advice be provided to public bodies without fear of outside scrutiny. This not only allows persons having the responsibility of making decisions to freely discuss the issues before them in order to arrive at well-reasoned decisions, but also enables decision makers to address an issue without fear of appearing wrong if their deliberations were made public.

By way of background, the EEF advised that the record at issue was originally requested by the Minister in 2004 in follow-up to a preliminary report (the "Preliminary Report"). The Preliminary Report had been supplied by the Environmental Advisory Council (the "EAC") and contained 44 recommended changes to PEI's Pesticide Regulatory System. The proposed changes were based largely on information the EAC gathered at a series of public consultations and open meetings. The Preliminary Report was released in May, 2004. The Minister requested that an inter-departmental committee be formed to provide analyses and recommendations regarding the overall advisability of the 44 proposed regulatory changes contained in the Preliminary Report. This follow-up report is the record at issue. Its mandate was to include the time that would be required to implement the recommendations, if pursued, the approximate cost of any recommended changes, and the necessary changes to the *Pesticides Control Act* and/or its regulations that would be required.

The EEF argued that the record at issue provided the Minister with recommendations regarding the advisability of each of the proposed regulatory changes in light of various costing analyses, required legislative changes, suggested implementation time-frames and proposed fee structures. The EEF submitted that uninhibited provision of this kind of information is essential for the Minister to make informed decisions that best serve the

public interest. The EEF also argued that ordering the release of the record at issue would undermine the purpose of clause 22(1)(g), and significantly constrain staff in providing information, analyses and recommendations for the consideration of the Minister in the future.

The Applicant argued that the record at issue was based, in part, on the input from at least three presentations made by public, non-governmental organizations. The Applicant and two other parties made separate presentations and provided specific industry input to the Preliminary Report. This was in response to the EEF search for specific and direct public input for the purpose of drafting the record at issue. The Applicant submitted that these organizations and the public should be permitted to determine if the information they presented was appropriately considered.

The analysis in this review rested on whether the record at issue satisfied the definitions of "recommendation", "advice," and "proposals, analyses or policy options". The Commissioner accepted the definitions provided in the FOIPP Coordinators' Handbook.

The EEF submitted that the record at issue fit clause 22(1)(g) of the FOIPP Act precisely. With respect to each of the 44 regulatory changes proposed, the committee made detailed analyses and recommendations regarding the advisability and logistics of implementation. Upon receiving the record at issue, the Minister adopted some of the committee's recommendations, while others were modified or rejected outright.

It has been widely accepted by other information and privacy commissioners and by the courts that the term "advice" encompasses the other terms set out in clause 22(1)(g), but the Commissioner agreed with the Applicant that "advice" in this context should not be given a broad interpretation. The Commissioner raised Order No. 06-004, wherein she had noted that a narrow view of "advice" is supported by the courts. By applying a narrow interpretation of "advice" to the record at issue, the Commissioner found that the record contained advice, recommendations and analyses.

The Commissioner accepted the evidence of the EEF that the head of EEF sought the advice of a committee who then analyzed the 44 recommendations of the Preliminary Report and set out its analysis in the record at issue. The committee's mandate centered on implementation and directed toward taking action, including regulatory action. The record at issue was provided to the Minister of the EEF, who was in the best position to implement its advice. Further, the record at issue included suggestions as to a course of action. Based on these findings, the Commissioner concluded that the record at issue satisfied the requirements of clause 22(1)(g) of the FOIPP Act.

*Exercise of Discretion*

The Commissioner noted that the analysis of section 22 involves two steps. Having already found that the record at issue satisfied the requirements of clause 22(1)(g) of the FOIPP Act, the Commissioner moved to the second step of analysis. The Commissioner stated that while it was not her role to exercise discretion for the head of the EEF, she was required to examine whether his discretion was exercised properly based on the information provided to her.

The EEF stated that it was fully warranted in exercising its discretion to deny access to the record at issue in its entirety. The Commissioner observed that the head of the EEF had given very little information as to the particulars of how he exercised his discretion. The Commissioner pointed out that the head of the EEF cannot refuse the Applicant access to the record at issue simply because the record at issue satisfies the requirements of clause 22(1)(g), but that the head of the EEF must show that all relevant factors for and against access were weighed in a balanced and judicious manner. The Commissioner added that if the Minister had weighed all relevant factors, he had neglected to provide this important information to the Commissioner. As a result, the Commissioner was not satisfied based on the evidence provided that the head of the EEF exercised the discretion required by clause 22(1)(g) of the FOIPP Act.

The Commissioner reminded the EEF that the most important factor to be considered in the exercise of discretion is the purpose of the FOIPP Act as set out in section 2, namely, to allow any person a right of access to the records in the custody or under the control of a public body, subject to limited and specific exceptions as set out in the Act.

The Commissioner pointed out that in 2004 the head of the EEF exercised his discretion to provide the Preliminary Report to the public, and that it also contained advice and recommendations. This begged the question as to what additional factors led to the decision not to disclose the follow-up report, that being the record at issue. The Applicant argued that it is in the best interests of the inputting organizations and the public to disclose the record at issue and the Commissioner had no evidence that the EEF had considered whether that was the case. Given the dearth of information, the Commissioner ordered the head of the EEF to reconsider its decision.

The Commissioner required that the reconsideration by the head of the EEF include the balancing of all relevant factors, including the objects and purposes of the FOIPP Act, and that once the decision had been reconsidered, the head of EEF provide written reasons for his decision to the Applicant and to the Information and Privacy Commissioner.

## Protection of Privacy

### *Order No. PP-07-002 - Transportation - Taxi Driver and Health Form:*

In Order PP-07-002, the Complainant challenged the requirement of the Department of Transportation and Public Works, Registrar of Motor Vehicles (the "Registrar") that applicants for Class 4 driver's licenses must provide certain personal health information and must execute a release allowing the Registrar further access to more of the applicants' personal health information.

Based on a review of the form at issue, the Commissioner concluded that the information collected in the Drivers Medical Certificate clearly satisfied the definition of personal information as found in the FOIPP Act.

The Commissioner conducted a review of similar licensing requirements in other provincial jurisdictions. The Commissioner found that the range of variations itself was instructive and indicated that each jurisdiction addresses public safety in its driver's licence requirements. In addition, the Commissioner found that there is some amount of flexibility for a Registrar in setting such requirements, as well as in its forms for collecting applicants' personal medical information.

The Commissioner agreed that the Registrar has the authority to require a licenced applicant to undergo a medical examination or a vision examination and to produce a medical certificate in such form as the Registrar may prescribe to determine whether that person is physically and mentally competent to operate any class of motor vehicle. The Commissioner agreed that this authority is expressly set out in clause 70(6)(b) of the *Highway Traffic Act* (the "HT Act"), but pointed out that in order for the Registrar to comply with the FOIPP Act, the collection of information on the Driver's Medical Certificate must be related to the purpose set out in the HT Act: to "determine whether that person is physically and mentally competent to operate any class of motor vehicle".

The Commissioner also agreed with the Registrar that it is the Registrar who makes the decision regarding medical fitness to drive, and that the Registrar also has the authority to prescribe the form used. The Commissioner points out, however, that the form must still comply with the requirements of other applicable legislation, such as the FOIPP Act and the *Human Rights Act*.

*The Questions*

The Commissioner noted that the questions set out in the Driver's Medical Certificate related to conditions such as the applicant's vision, chronic substance abuse, hearing loss, cardiovascular diseases and diseases of the nervous system.

The Commissioner found that all questions were logically connected to a person's physical and mental competency to drive a motor vehicle and corresponded well with the CCMTA Medical Standards for Drivers.

The Commissioner concluded that the questions contained in the Driver's Medical Certificate comply with the FOIPP Act in that they lead to the collection of personal information expressly authorized by the HT Act, and they lead to the collection of the Complainant's personal information relating directly to and is necessary for the activity of licencing drivers of Class 4 motor vehicles.

Before reaching her conclusions regarding the questions on the form, the Commissioner considered the Complainant's submission that it is his doctor who should make the decision as to whether he is medically fit to drive. Upon the facts, this approach had been sufficient in the past. The Commissioner commented that her task was only to determine whether the Registrar collects personal information of the Complainant in violation of the FOIPP Act. Based on a careful reading of the provisions of both the HT Act and the FOIPP Act, the Commissioner found that the questions set out in the Driver's Medical Certificate do not result in a violation of the FOIPP Act.

The Commissioner also commented that the Registrar is burdened with the responsibility of determining medical fitness to drive. The Registrar must set its requirements carefully, keeping public safety a paramount consideration, and must ensure that the relevant medical information is collected. In doing so, the Registrar must strike a satisfactory balance between collecting the information and preserving the rights of its driver applicants. The Commissioner concluded that the questions set out in the Driver's Medical Certificate succeeded in striking such a balance.

*The Release*

In Part I of the Driver's Medical Certificate, Driver/Patient Information, the applicant driver was required to sign the following:

> **Driver's Certificate of Information and Release for Physician to Report Medical Information**
> I certify that the foregoing information is, to the best of my knowledge, correct. I further authorize any physician, hospital or medical clinic to release to the Registrar any information concerning my medical condition.

No restrictions were placed on this authorization for release of medical information, and the Registrar made it clear that the release was required by the Driver's Medical Certificate. While many driver applicants would assume that additional information would be requested by the Registrar only where absolutely necessary, the Commissioner observed

that such an assumption would be based on trust alone. The Commissioner agreed with the Complainant's observation that the release allows the Registrar to request medical information without any evidence or grounds. The release could, in fact, lead to the collection of a driver's complete medical history.

In support of the indirect collection of personal information, the Registrar relied on section 32 of the FOIPP Act. The Commissioner found that subclause 32(1)(a)(ii) did not apply. She noted that the HT Act authorizes the collection of a driver's medical certificate from the driver, but does not authorize indirect collection of medical information. In support of its section 32 submission, the Registrar relied on Order No. PP-04-004 of this office, involving the Worker's Compensation Board. In that order, it was noted that the *Workers Compensation Act* specifically mandated the provision of medical information by not only an injured worker, but also physicians, hospitals and other medical professionals involved with the worker's care. The Commissioner noted that the HT Act provided no such authorization.

The Commissioner also found that the Registrar failed in its clause 32(1)(g) argument, applying to the indirect collection of personal information via the release. In order to successfully rely on this subsection of the FOIPP Act, the Commissioner stated the Registrar must prove that the personal information being collected was necessary to determine the eligibility, or verify the eligibility, of an individual to participate in a program of, or receive a benefit, product or service from, the Registrar. The Registrar had not shown that this broad release was necessary for those purposes.

As a result of the findings, the Commissioner ordered the Registrar to amend the Driver's Medical Certificate so that it complies with the FOIPP Act and offered to provide guidance in this regard.

Considering the administrative burden that may be involved in carrying out the amendment of the Driver's Medical Certificate, the Commissioner provided the Registrar with six months to implement the required amendment.

***Order No. PP-07-003 - DSP:***

Order No. PP-07-003 resulted from a complaint relating to the Disability Support Program (the "DSP") and, more particularly, the DSP Screening Tool form (the "DSP Screening Tool") used by the DSP. The Complainant stated that 70% of the information collected by the DSP Screening Tool was personal information that did not relate directly to the DSP, nor was it necessary for the operation of the program. The Complainant claimed that the majority of information was not a determinant of the level of support received from the DSP by a DSP client.

This was one of several complaints that had been received by this office relating to the DSP, with decisions being issued in 2004 under Order Nos. PP-04-001, PP-04-002, PP-04-005 and, in 2006, with Investigation Report No. PP-06-004.

*The DSP Screening Tool*

There were 60 questions set out in the DSP Screening Tool. The Public Body stated that it was an objective tool not drafted by the Public Body, but "borrowed" from another jurisdiction that used the tool for determining the level of function of disabled persons. The Public Body chose this tool as the best alternative from several it reviewed for the implementation of the DSP program. The nine-page questionnaire scored clients in the areas of memory, behavioural/psychosocial, functional abilities, instructional activities of daily living, nutrition, medication, safety, and community integration. In practice, the DSP Screening Tool was always used to measure the level of function of a DSP client and, in turn, to determine which needs of the client could be addressed by the program. The questions asked in the DSP Screening Tool were repeated on a yearly basis.

*Personal Information*

In accordance with the definition of personal information set out in the FOIPP Act, the Commissioner found that the Public Body collects personal information of clients of the DSP, via the DSP Screening Tool, including name, address, telephone number, personal health number, gender, marital status, date of birth, possible criminal history, possible personal opinions, and significant information relating to the nature and impact of the client's disability. She also found that the collection of personal information is necessary for the operation of the DSP.

In its final submission, the Public Body advised that the DSP Screening Tool was no longer being used. Its retirement was for reasons other than privacy concerns. The Commissioner agreed with the Complainant that contradictory statements had been made regarding how the DSP Screening Tool had been applied and did not believe that such statements were made in bad faith. The Commissioner found that the statements arose out of the reality that the DSP Screening Tool was being applied in an inconsistent manner.

The Commissioner considered all of the submissions of the parties and, based on the evidence presented, concluded that the 42 "non-function" questions on the DSP Screening Tool were an unnecessary collection of DSP clients' personal information. In reaching this conclusion, the Commissioner relied, in part, on the evidence that the non-function questions were considered optional and being applied inconsistently by the case workers who administered the DSP Screening Tool.

The Public Body argued that the responses to each question on the DSP Screening Tool led to the DSP payment for unmet disability-related needs. As was similarly found in Investigation Report PP-06-004, the Commissioner found that the questions on the DSP Screening Tool appeared to be logically related to a determination of severity of disability. The Commissioner disagreed with the Public Body's statement that all of the information gathered led to the payment for unmet needs. Based on the evidence provided, in particular, the actual DSP Screening Tool results of the Complainant, the Commissioner concluded that it was only the responses to the 18 function questions that led to the DSP payment, and that it was only the score of those particular function questions that was used to calculate financial need, being the main activity of the DSP Program. The Commissioner considered the Public Body's submission that the initial questions on the DSP Screening Tool establish how capable the DSP client may be to provide valid information for the remainder of the tool; however, the Commissioner found that the evidence indicated that the DSP does not actually use the responses to those questions.

The Commissioner stated two reasons for not accepting the Public Body's submission that the non-function questions were also necessary to ensure the reliability of the questions asked: (i) the non-function questions on the DSP Screening Tool were considered "optional" and were not asked in some cases; and (ii) the score used by the Public Body was made up from the answers to the 18 function questions only.

The Commissioner pointed out reasons why *not* to collect personal information, including not collecting a client's personal information to "save for a rainy day" in case a program is expanded and the information turns out to be useful at that time, and/or not collecting personal information simply because it is "on the form". The Commissioner advised that in order to comply with section 31(c) of the FOIPP Act, the personal information collected must be essential information required by the program, and if a public body is not actually using the information it collects, then it is not required by the program.

The Public Body was given the opportunity to prove that the DSP Screening Tool complied with Part II of the FOIPP Act and, in particular, to respond fully to the allegations of the Complainant. Despite such invitation, the Public Body did not prove that the DSP Screening Tool complied with any subsection of section 31 of the FOIPP Act.

*FOIPP Advisory*

In compliance with subsection 32(2) of the FOIPP Act, the Public Body had advised that printed posters and desk-size tent cards containing a privacy advisory had been distributed to all staff throughout the DSP. In addition, employees and managers within the DSP had received training on the FOIPP Act so that they were able to address questions regarding the collection of clients' personal information. However, given the evidence of the parties regarding the potential bias in the responses to the questions in the DSP Screening Tool, the Commissioner emphasized the importance of a verbal explanation by the case worker to their responding client. The Commissioner pointed out that a thorough explanation had the potential of not only setting clients' minds at ease, but also of clarifying the true purpose of the questions and establishing trust.

The Commissioner concluded that the use by the Public Body of the 44 non-function questions in the DSP Screening Tool violated Part II of the FOIPP Act. The Commissioner recommended that when the head of the Public Body implements a new screening tool to replace the former, the program undergo a comprehensive Privacy Impact Assessment prior to such implementation, using the content of the order be used as a guide to ensuring that a similar violation of the FOIPP Act does not occur in the future.

## STATISTICS

### Appendix "A" - Freedom of Information

***Summary of Applications for Review***
***January 1, 2007 - December 31, 2007***

| Public Body | Requests for Access to Information * | Application for Review Ongoing | Application for Review 2007 | Resolved without Order | Order Issued | Ongoing |
|---|---|---|---|---|---|---|
| Agriculture | 3* | 0 | 0 | 0 | 0 | 0 |
| Commission scolaire de langue francaise | 0* | 0 | 0 | 0 | 0 | 0 |
| Community and Cultural Affairs | 2* | 1 | 0 | 1 | 0 | 0 |
| Development and Technology | 6* | 1 | 0 | 1 | 0 | 0 |
| Eastern School District | 19* | 1 | 2 | 0 | 1** | 2 |
| Education | 9* | 0 | 1 | 0 | 0 | 1 |
| Elections PEI | 0* | 0 | 0 | 0 | 0 | 0 |
| Environment, Energy and Forestry | 17* | 1 | 0 | 0 | 1 | 0 |
| Executive Council's Office | 1* | 3 | 0 | 3 | 0 | 0 |
| Fathers of Confederation Buildings Trust | 0* | 0 | 0 | 0 | 0 | 0 |

| Public Body | Requests for Access to Information * | Application for Review Ongoing | Application for Review 2007 | Resolved without Order | Order Issued | Ongoing |
|---|---|---|---|---|---|---|
| Fisheries and Aquaculture | 1* | 0 | 0 | 0 | 0 | 0 |
| Health | 11* | 0 | 1 | 0 | 0 | 1 |
| Island Regulatory and Appeals Commission | 0* | 0 | 0 | 0 | 0 | 0 |
| Island Waste Management Corporation | 0* | 0 | 0 | 0 | 0 | 0 |
| Office of the Attorney General | 10* | 2 | 1 | 1 | 1 | 1 |
| Office of the Premier | 3* | 0 | 0 | 0 | 0 | 0 |
| PEI Liquor Control Commission | 1* | 0 | 1 | 1 | 0 | 0 |
| PEI Public Service Commission | 0* | 0 | 0 | 0 | 0 | 0 |
| Provincial Treasury | 8* | 1 | 0 | 1 | 0 | 0 |
| Social Services and Seniors | 11* | 0 | 1 | 1 | 0 | 0 |
| Tourism | 2* | 2 | 0 | 1 | 1 | 0 |
| Transportation and Public Works | 8* | 1 | 0 | 1 | 0 | 0 |

| Public Body | Requests for Access to Information * | Application for Review Ongoing | Application for Review 2007 | Resolved without Order | Order Issued | Ongoing |
|---|---|---|---|---|---|---|
| Western School District | 0* | 0 | 0 | 0 | 0 | 0 |
| Workers Compensation Board of Prince Edward Island | 3* | 1 | 0 | 0 | 1 | 0 |
| Workers Compensation Board Appeals Tribunal | 0* | 1 | 0 | 0 | 1 | 0 |
| **TOTAL:** | 115* | 15 | 7 | 11 | 6 | 5 |

*Obtained from Access and Privacy Services Office
**Addendum to Order 06-006

## STATISTICS

## Appendix "B" - Protection of Privacy

***Summary of Privacy Complaints***
***January 1, 2007 - December 31, 2007***

| Public Body | Privacy Complaints to Access and Privacy Services * | Privacy Complaints to Commissioner Ongoing | Privacy Complaints to Commissioner 2007 | Resolved without Order | Order Issued | Ongoing |
|---|---|---|---|---|---|---|
| Agriculture | 1* | 0 | 1 | 0 | 0 | 1 |
| Commission scolaire de langue francaise | 0* | 0 | 2** | 1** | 0 | 1 |
| Community and Cultural Affairs | 0* | 0 | 0 | 0 | 0 | 0 |
| Development and Technology | 0* | 0 | 0 | 0 | 0 | 0 |
| Eastern School District | 0* | 0 | 2** | 1** | 0 | 1 |
| Education | 0* | 0 | 0 | 0 | 0 | 0 |
| Elections PEI | 1* | 0 | 1 | 0 | 1*** | 1 |
| Environment, Energy and Forestry | 0* | 0 | 0 | 0 | 0 | 0 |
| Executive Council's Office | 0* | 0 | 0 | 0 | 0 | 0 |
| Fathers of Confederation Buildings Trust | 0* | 0 | 0 | 0 | 0 | 0 |

| Public Body | Privacy Complaints to Access and Privacy Services * | Privacy Complaints to Commissioner Ongoing | Privacy Complaints to Commissioner 2007 | Resolved without Order | Order Issued | Ongoing |
|---|---|---|---|---|---|---|
| Fisheries and Aquaculture | 0* | 0 | 0 | 0 | 0 | 0 |
| Health | 0* | 0 | 0 | 0 | 0 | 0 |
| Island Regulatory and Appeals Commission | 0* | 0 | 0 | 0 | 0 | 0 |
| Island Waste Management Corporation | 0* | 0 | 0 | 0 | 0 | 0 |
| Office of the Attorney General | 1* | 0 | 2 | 2 | 0 | 0 |
| Office of the Premier | 0* | 0 | 0 | 0 | 0 | 0 |
| PEI Liquor Control Commission | 0* | 0 | 1 | 1 | 0 | 0 |
| PEI Public Service Commission | 0* | 0 | 0 | 0 | 0 | 0 |
| Provincial Treasury | 1* | 0 | 1 | 0 | 0 | 1 |
| Social Services and Seniors | 1* | 1 | 2 | 1 | 1 | 1 |
| Tourism | 0* | 0 | 0 | 0 | 0 | 0 |
| Transportation and Public Works | 0* | 1 | 0 | 0 | 1 | 0 |

| Public Body | Privacy Complaints to Access and Privacy Services * | Privacy Complaints to Commissioner Ongoing | Privacy Complaints to Commissioner 2007 | Resolved without Order | Order Issued | Ongoing |
|---|---|---|---|---|---|---|
| Western School District | 0* | 0 | 1** | 1** | 0 | 0 |
| Workers Compensation Board of Prince Edward Island | 0* | 0 | 0 | 0 | 0 | 0 |
| Workers Compensation Board Appeals Tribunal | 0* | 0 | 0 | 0 | 0 | 0 |
| **TOTAL:** | 5* | 2 | 11 | 5 | 3 | 6 |

*Obtained from Access and Privacy Services Office
**One request for advice involves three public bodies
***Interim Order regarding jurisdiction to investigate