

# Criteria for Publishing Access to Information Requests



This document sets out the general considerations and criteria for determining the candidacy for the online posting of disclosures made in response to access requests under the *FOIPOP Act*.

## A. General Considerations

- Only requests that fall into the category of “General Information” will be considered candidates for publishing. These requests do not include a request for any information about an identifiable individual. Requests for “Personal Information” or for “General/Personal Information” are by their very nature ineligible for public release.
- Responses will be posted fourteen (14) days after release to the applicant.
- Applicants will be made aware that the request **may be eligible** for posting on line via the acknowledgement letter.
- Applicants **will be notified** that the contents of their release will be published online. This notification will be communicated to applicants in the decision letter with the following paragraph: *Please be advised that in the spirit of the FOIPOP Act – to ensure that public bodies are fully accountable to the public –this response to the FOIPOP applicant, once approved, will be made public on our disclosure log at <https://openinformation.novascotia.ca> after 14 days. The response along with a de-identified copy of the disclosure letter will be posted, allowing citizens to search for and request existing FOIPOP responses free of charge.*
- IAP Services will advise Departments which response packages are candidates for online disclosure.
- De-identified decision letters will be posted along with the released documents. These letters explain any exemptions applied and give additional details to help interpret or contextualize the release.
- Responses will remain online for three (3) years.
- If, as a result of a recommendation of the Information and Privacy Commissioner, a public body discloses additional documents to those disclosed in response to a FOIPOP request, the published package will be updated to allow for the publication of these additional records.
- When no electronic copy exists, the response document is too large (over 500 pages) or if the record is a raw data extract, a page out notice and decision letter will be made available online.

## B. Considerations for Disclosures

- IAP Administrators will consider suitability of all “General Information” requests based on a number of factors including the public interest and transparency/accountability of public bodies.
- All releases will be reviewed by the Publication Review Team prior to being posted online.
- Responses that contain un-redacted personal information (e.g. in cases where the applicant’s own information appeared in the release and was left un-redacted) will not be posted online.
- Responses that contain un-redacted business-confidential information (e.g. in cases where the applicant’s own business information appeared in the release and was left un-redacted) will not be posted online.
- In the above-noted instances, IAP Administrators can consider the extent of modifications that would be needed to delete the applicant’s own information from the release and may propose a public disclosure with those modifications made.
- “No records” decisions will be posted online (within the “General” category).
- IAP Administrators will consider any harm(s) in releases (e.g. harm to inter-governmental relations; risk to safety or security whether to a person or institution; copyright material) before making a recommendation to include the records in the wider online release.

## C. Considerations on Copyright

### Material under copyright held by the Province

If the records in question are under copyright held by the Province, then these will be posted in full.

This is the case when the province is the sole creator of the record. Examples of these types of records include:

- Reports
- Press releases / information brochures
- Maps
- Photographs

## C. Considerations on Copyright (*continued*)

### **Material under copyright held by a third party contracted by the Province**

If the records in question are subject to copyright held by a third party that had been contracted or commissioned by the province to produce those records, then they may be able to be published.

Examples of these types of records include

- The Nova Scotia Culture Index prepared for Communities, Culture and Heritage by the Corporate Research Associates (CRA),
- A report by a consulting firm produced as part of a consulting process for the province,
- Environmental Assessment reports
- Air Quality / Air Monitoring Reports

If the package contains materials that are possibly under a jointly-held copyright, they will be flagged for further consideration in accordance with the Copyright Act. It is possible that the contract under which they were produced specifies or implies ownership, or provides for an unrestricted license over the materials, which will help to indicate if they can be included in the online disclosure.

### **Material under copyright held by a third party or another level of government**

In accordance with the *Copyright Act*, if the records are under copyright held by a third party or another level of government with no relation to the province, these records will not be included in the on-line package. Examples of these types of records include:

- News articles,
- Google images,
- Architectural sketches,
- Promotional material (pamphlets, brochures)

If the package includes material under third party copyright, those sections or pages will be removed, and a placeholder statement or page will be inserted indicating that material subject to copyright has been removed and IAP Services must be contacted to obtain those page(s). The principle is to be as specific and helpful as possible to help users identify the removed record without violating copyright.

## D. Glossary of Terms

**Access Request** – a formal request for records made under the *Freedom of Information and Protection of Privacy Act*.

**Applicant** – any individual or organization that requests access to records or information from a public body.

**Business Confidential Information** – Information that is defined by section 21 of the *Freedom of Information and Protection of Privacy Act*. This information relates to commercial information of a third party, or like information, that was supplied in confidence, and could reasonably be expected to harm that third party's position.

**Copyright** – the exclusive legal right of the creator to copy, license or reproduce any literary, musical, artistic or other original material.

**Decision / Disclosure Letter** – the formal recorded decision from the Public Body telling the applicant whether they are entitled to access to the record and/or information and the reason(s) for any record or information being withheld from release.

**De-identified Decision / Disclosure Letter** – the formal recorded decision from the Public Body telling the applicant whether they are entitled to access to the record and/or information and the reason(s) for any record or information being withheld from release. In this version, all information about the applicant is removed before being published on-line.

**Exemption(s)** – a mandatory or discretionary provision under the FOIPOP Act that authorizes the public body to refuse to disclose a record or part of a record in response to a request made under the FOIPOP Act.

**FOIPOP** – the *Freedom of Information and Protection of Privacy Act*. The Act that provides: (1) a right of access to records in the custody or control of a public body in Nova Scotia; and (2) protects the privacy of individuals with respect to personal information about themselves held by a public body in Nova Scotia and provides individuals with a right of access to that information.

**General Information Requests** – a request for information under the FOIPOP Act that does not include a request for any personal information about an identifiable individual. General Information requests may include government agreements, briefing notes, policies, statistics, etc.

## D. Glossary of Terms *(continued)*

**General / Personal Information Requests** – a request for information under the FOIPOP Act that includes both personal information about an identifiable individual and more general or topical information.

**IAP Services / IAP Administrator** – Information Access and Privacy Services is part of Service Nova Scotia and Internal Services (SNSIS). IAP Services and the IAP Administrators within the division work to strengthen government’s access and privacy programs, increase awareness and understanding of information access and privacy principles, and balance the right of citizens to obtain government information with government’s obligation to protect citizen privacy.

**Information and Privacy Commissioner** – the independent ombudsman who is appointed by the Governor-in-Council to investigate Requests for Review from applicants or Third Parties who are not satisfied with FOIPOP responses they received from a public body.

**No Records Reply** – refers to the public body’s response to the applicant, pursuant to the clause 7(2)(b) of the *Act*, advising that the public body does not have custody or control of records which would respond to the application.

**Personal Information Requests** – a request for information under the FOIPOP Act that involves personal information about an identifiable individual.

**Public Body** – a Nova Scotia Government department, board, commission, foundation, agency, tribunal, association of other group as defined in Section 3(1)(j) of the *Act*.

**Public Disclosure** – refers to the online publication of the FOIPOP response to the website.

**Publication Review Team** – a quality control group comprised of three (3) IAP Administrators responsible for confirming the eligibility of releases that are proposed to be posted to the Public Packages Log. The Publication Review Team ensures only release packages that meet the established criteria for online publication are posted to the Public Packages Log.

**Redacted / Redaction** – refers to the act of severing or removing information or record(s) from a FOIPOP response.

**Third Party** – in respect to a FOIPOP request or for correction of personal information, means any person, group of persons, or organization other than the person who made the request or the public body.