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> Information Access and Privacy Services

> > Annual Report 2017/18

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Letter from the Minister

I am pleased to submit the 2017/18 annual report from the Information Access and Privacy (IAP) Services division of the Department of Internal Services.

The report provides an overview of the activities of government departments and other public-sector entities in relation to their responsibilities to provide access to government information and to protect the privacy of personal information held by government.

In 2017/18, the branch launched the government's new corporate privacy policy and introduced an online training program for all government employees to raise awareness of their access and privacy obligations. Both activities were part of year three in the ongoing consolidation of IAP Services.

The aim of consolidation is to make the administration of the Freedom of Information and Protection of Privacy (FOIPOP) Act more consistent and to support government transparency. The report of our activities in the following pages will demonstrate how we are making progress toward that goal.

As always, I want to thank the IAP Services staff for their dedication to protecting citizen privacy while promoting the parallel right of access to government-held information with specific and limited exceptions.

Hon. Patricia Arab

Minister of Internal Services

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Mandate, Mission, and Vision

In 2015, government centralized authority for information, access and privacy policy, practices, services and resources within the Department of Internal Services (ISD).

Our mandate is to ...

... provide leadership, strategic direction, policy and operational advice and support to the government and other public bodies to help comply with the FOIPOP act.

The new mandate authorized ISD to create the new division of Information Access and Privacy (IAP) Services to supply access and privacy support to all government departments. Other public bodies can receive our services on a cost-recovery basis through memoranda of understanding.

Our mission is to ...

...promote a culture in which the public is informed, privacy is protected, and government is accountable for its decisions. We do this by providing professional guidance to our client departments and the public—advice that is based on an effective balance between the right of access to information and the right to privacy.

Achieving this balance is necessary to realize our vision of being ...

... a trusted voice to drive access to information by default, and privacy by design.

This means disclosure is presumed unless there is a legislated reason against it, and privacy is built into programming and projects from the beginning.

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Governing Legislation

We work within the context of the following current statutes:

- The Freedom of Information and Protection of Privacy (FOIPOP) Act
- · The Privacy Review Officer (PRO) Act
- The Personal Information International Disclosure Protection Act (PIIDPA)
- · Relevant regulations and policies
- Departmental statutes, as these sometimes take precedence over FOIPOP

In addition to provincial government departments, the FOIPOP act also applies to public bodies found in the ranks of agencies, boards, and commissions, as well as in the education and health sectors.

Municipalities and other municipal services are defined as public bodies as well and are also subject to access and privacy provisions, but their legislation differs. It is found in Part XX (20) of the Municipal Government Act (MGA), which mirrors the FOIPOP act.

While the provincial government has no jurisdiction over the access to information processes of municipalities, academia, schools, or hospitals (the MASH sector), this report offers a platform for these entities to publish their access statistics every year.

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The Freedom of Information and Protection of Privacy (FOIPOP) Act

The purpose of the FOIPOP act is three-fold:

- 1. To ensure that public bodies are fully accountable to the public
- 2. To protect the privacy of individuals with respect to personal information about themselves held by public bodies
- 3. To provide for the disclosure of all government information with necessary and limited exemptions

These objectives necessitate a careful balancing of two competing but equal rights: the right to ask for government information and the right to the protection of personal information.

As a result, and in keeping with current trends in open information and privacy-protection obligations and principles, our team of administrators and privacy specialists is continually looking for new ways to advance Nova Scotians' access and privacy rights by applying best practices in the field to our own processes and procedures.

The results do not always please everyone. Applying the act means walking a tightrope between two competing principles as outlined above: the presumption of public access and the right to personal privacy. While government does not receive many accolades for performing this balancing act, on occasion comments like the following come in, which are encouraging to staff in IAP Services:

I gotta say, having done this cross-Canada search for data on a few stories now, it's always a suprising pleasure dealing with folks like you from Nova Scotia's access to info system. Way less of a headache than other jurisdictions. Reporters probably don't say this enough, so thanks.

FOIPOP Media Applicant 2018

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The Privacy Review Officer (PRO) Act

In 2008, government established oversight for the privacy provisions (sections 24 to 31) of the FOIPOP act through the Privacy Review Officer (PRO) Act. Prior to this, there was no challenge mechanism for individuals who were not satisfied with a response from a public body to a privacy-related complaint. The PRO act gives citizens the opportunity to take their challenges to an oversight body for review. The act provides the oversight body with other powers as well, such as the ability to initiate an investigation if they believe there has been a contravention of the privacy provisions of FOIPOP. The PRO act applies only to provincial public bodies; it does not apply to the privacy provisions of the Municipal Government Act.

Personal Information International Disclosure Protection (PIIDPA) Act

PIIDPA was created in 2006 to provide further privacy protection, and at the same time to respond to concerns about the vulnerability to foreign access and disclosure of the personal information held by public bodies. The act prohibits public-sector organizations, universities, municipalities and their service providers from allowing foreign storage of or access to their personal-information holdings, except to meet the necessary requirements of their operations. It also requires any individual in these organizations to report any demand by a foreign court for disclosure of the personal information of Nova Scotians. Each year the Department of Justice publishes a report on the decisions made to allow storage or access of personal information outside Canada. The report can be found at https://novascotia.ca/just/IAP/.

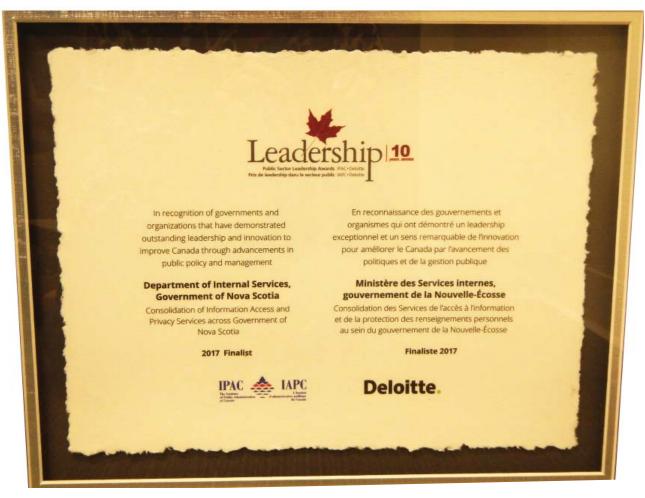
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2017/18: Highlights from Year Three of Transforming Access and Privacy Services in Nova Scotia

A major highlight of the year was national recognition for the Government of Nova Scotia's consolidation of information access and privacy services between 2015 and 2017. The Department of Internal Services won a 2017 finalist spot at the Public Sector Leadership Awards competition in Ottawa

sponsored by the Institute of Public Administration (IPAC) of Canada and Deloitte. These awards are given in recognition of outstanding contributions to advancements in public policy and management.



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The consolidation that was recognized by this award paved the way for a second IAP Services' milestone during the fiscal year. This was the launch of our website for posting eligible FOIPOP requests once an applicant has been in receipt of the responsive records for 14 days. The service has been welcomed by many users.

In fiscal 2017/18, IAP Services continued the consolidation work by intensifying efforts to standardize corporate policies, guidelines, and best practices to deepen consistency in understanding and applying the FOIPOP legislation across government.

This put the focus on two main initiatives in fiscal 2017/18:

- A modernized privacy policy to replace the one in effect since 2008
- A mandatory online training program for all government employees to create an awareness of access and privacy obligations in every part of the government workforce

A third priority was designing a training plan for employees who need more in-depth access and privacy education. That work is done and the program will be put into effect in fiscal 2018/19.

New Privacy Policy for Nova Scotia

The new corporate privacy policy was approved on November 8, 2017 with an effective date of May 8, 2018. It aligns with current best practices that protect privacy rights when managing the personal information Nova Scotians have entrusted to government.

The old privacy policy was designed for a different organizational structure that is no longer practical for our consolidated model of privacy administration. Further, rapidly changing technology is having a significant impact on privacy, creating new demands in the management of personal information.

Employees now have new privacy resources available to them on a dedicated Intranet site: privacy-breach and privacy-complaint protocols as well as templates for conducting privacy-impact assessments. Other tools will continue to be developed in support of IAP Services' responsibility to deliver government's privacy program such as the ABCs of video surveillance or how to identify a privacy breach.

More specialists are now dedicated to privacy within IAP Services. They are helping departments and individuals within government understand their privacy obligations and how to use the new privacy tools at their disposal. A gap analysis in fiscal 2017/18 identified areas where privacy educational content is needed, and it will be developed in fiscal 2018/19.

Awareness Training Launched for all Government Employees

A core component of the privacy program is mandatory training on the responsibilities under the new policy.

The privacy and access program areas have jointly developed a three-part training program. The first phase is the mandatory awareness module. Phase one promotes general awareness about access and privacy to ensure all employees know about their privacy and access responsibilities and are aware of the tools to fulfill those responsibilities. It has been available online since January 2018.

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Phase one is aimed at everyone, including those who work under Personal Service Contracts. The online medium makes the course broadly available to all public servants across the province, regardless of their location or type of work.

The second and third phases of training, which are not mandatory, are specific to certain audiences. Phase two will be customized to departments and phase three will consist of continuous learning opportunities for IAP professionals.

Uptake of the mandatory part of the program is measured quarterly to ensure compliance. By March 31, 2018, more than 1,700 employees had taken the training. In general, the content has been well-received. Here are a few of the comments we have received:





We received additional feedback on areas where we can improve, and we will work on those in fiscal 2018/19.

IAP Services also delivers continuous, customized training sessions to government employees through in-person presentations delivered throughout the province on topics requested by each audience.

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2018/19: Looking Ahead

Education and Specialized Training for Executives, Middle Managers, and IAP Administrators

The education and specialized training components of the program were designed and developed in fiscal 2017/18, to be delivered in fiscal 2018/19.

In-depth educational products and delivery methods will be tailored to the needs and mandates of departments and their varied workforces. Because departmental employees play an active role in records-collection, development of privacy impact assessments or PIAs, and privacy breach investigations when they occur, as well as in decision-making during the access-to-information process, employees must be familiar with access and privacy concepts and best practices to be able to meet their responsibilities under the FOIPOP legislation.

The third phase of the program is specialized training for access and privacy professionals. Their training needs are driven by IAP Services' mandate to provide advice and guidance on all access and privacy matters to government's workforce and leadership. IAP Administrator training will occur in regularly scheduled sessions throughout the year.

In the future, this component of the program may be made available, on request, to access and privacy professionals in other public bodies or other levels of government such as agencies, boards, and commissions, and the MASH sector. We also hope to be able to offer the online awareness component more broadly in the future to these other public bodies and others who may be interested.

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2017/18: The Year in Numbers

Understanding the Data

The information in this report is categorized according to whether the public entity falls under the jurisdiction of the FOIPOP act or Part XX (20) of the Municipal Government Act.

This year's report includes statistics on access to information applications received by provincial government departments, by agencies, boards, and commissions (ABCs), and by municipalities and other municipal services, academia, school boards, and the health sector (MASH).

ABCs and MASH-sector public bodies typically manage and track their own FOIPOP applications either under the FOIPOP act or the Municipal Government Act. Each year, the provincial government offers to include the statistics submitted by these other public entities in the annual report from IAP Services.

Some entities that reported last year did not do so this year, and vice-versa, lessening the comparability of their statistics with the statistics for provincial government departments that follow, beginning on page 14.

FOIPOP ACT

Government Departments and Specific Public Bodies (on cost-recovery basis)

FOIPOP applications managed by IAP Services

Other Public Bodies

Most other public bodies manage their own FOIPOP applications

- Agencies, boards, and commissions (ABCs)
- NSHA and IWK
- Universities, colleges, and school boards

MGA

Municipal Entities

Each manages its own MGA applications under the Municipal Government Act.

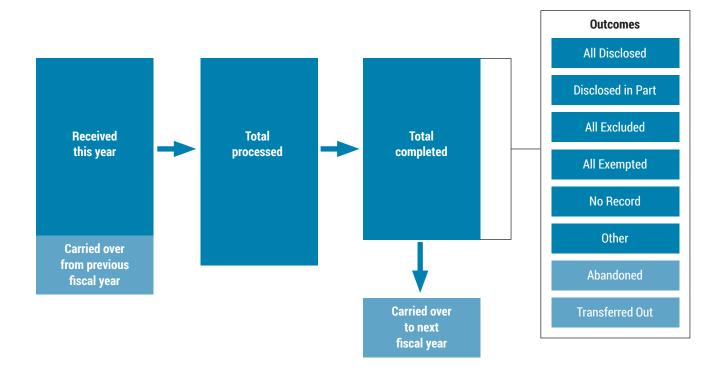
- Municipalitie
- Municipal police services
- Other municipal services

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How Applications Are Received and Processed

The following diagram shows how applications are processed and explains some key terms used throughout this report. The diagram reflects the way information is captured in our casemanagement system.



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Outcomes

The outcomes of a FOIPOP application can be any one of the following:

All Disclosed	The relevant public body has released all the information requested.
Disclosed in part	Less than 100 per cent of the requested information has been released, for one or more of the reasons outlined below.
	With the presumption of the act being disclosure, access rights are limited by 10 exemptions only, which are laid out very specifically in the legislation:
	 Information that could harm intergovernmental relations or information received in confidence from another government—s. 12
	2. Information that would reveal the substance of the deliberations of the executive council—s. 13
	3. Advice by or for a public body or minister—s. 14
	4. Information related to law enforcement and security—s. 15
	5. Information subject to solicitor/client privilege—s. 16
	6. Information the release of which would have a detrimental financial or economic impact on Nova Scotia—s. 17
	7. Health and safety-s. 18
	8. Conservation—s. 19
	9. Unreasonable invasion of personal privacy—s. 20 (mandatory exemption)
	10. Business confidential information—s. 21 (mandatory exemption)
All Exempted	The application is denied by the public body in accordance with one or more of the exemptions noted above. The letter of response to the applicant must provide an explanation as to why the public body is not providing the record
All Excluded	The FOIPOP act does not apply to some kinds of information in the custody or control of a public body. This information is therefore excluded from the jurisdiction of the act as follows:
	· Published information, material available for purchase, court records, and material that is a matter of public record
	 Archival material, including information at the Public Archives of Nova Scotia, that has not been placed there by a government body
	 Records created or collected by the Conflict of Interest Commissioner, the Ombudsman, or the Review Officer relating to their statutory functions
	 A record of a question to be used on an examination or test
	 A record relating to a prosecution if all proceedings are incomplete
	Private records deposited at the Public Archives of Nova Scotia

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Other statutes prevail over the act:

- Section s. 4 of the FOIPOP act identifies legislation that prevails over the act, restricting the disclosure of information such as maintenance-enforcement records and vital statistics.
- The list of prevailing statutes can be found in subsection 4A(2) of the FOIPOP act and subsection 464A(2) in Part XX (20) of the Municipal Government Act.

No record	The requested information does not exist.
Abandoned	The application may be abandoned for a variety of reasons, including the following:
	 The applicant has indicated to the relevant department that they no longer wish to proceed with the application.
	 The applicant has not accepted or paid the required fees for processing the application.
	 The applicant has not responded to clarifying questions, which must be answered before the application can proceed.
Transferred Out	The application is valid but has been submitted to the wrong public body, and therefore has been transferred to the correct entity for processing.
Other/Treated Informally	This is used when the outcome does not fit into one of the other categories or the information was provided outside the FOIPOP act.

Carried Over is Not Included in Outcomes:

Applications not completed by March 31 of a fiscal year are carried over to the next reporting period. Carried over is the difference between total applications received and total applications completed. Because there is no outcome during the fiscal year, applications carried over are not included in the statistics for applications completed.

Notes on Outcomes:

Can neither confirm nor deny existence of record

In some circumstances, a record in the custody or control of a public body contains information that prevents the public body from confirming or denying that the record exists. This happens for reasons of law enforcement (s. 15).

Record will be made public in 30 days

In other circumstances, the information being sought will be made available in the following 30 days [s. 7(4)]. In such cases, the information can be withheld until the 30-day mark; if not released as scheduled, the FOIPOP request will be re-opened as a new application.

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FOIPOP-Statistics for the Province of Nova Scotia

Applications Received and Completed

Government Departments*



^{*}Includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development Corporation

FOIPOP Applications Received by each Government Department*

Department	2015/16	2016/17	2017/18
Aboriginal Affairs	11	7	9
Agriculture	20	9	12
Art Gallery of Nova Scotia**	n/a	n/a	0
Business	34	18	24
Communications Nova Scotia	34	18	13
Communities, Culture and Heritage	16	25	25
Community Services	333	326	297
Economic and Rural Development and Tourism	1	n/a	n/a
Education and Early Childhood Development	43	58	53
Energy	30	19	12
Environment	773	983	1127
Executive Council Office	17	28	14
Finance and Treasury Board	60	24	20
Fisheries and Aquaculture	18	8	9
Health and Wellness	114	140	112
Immigration	20	10	11
Intergovernmental Affairs	20	6	12

Department	2015/16	2016/17	2017/18
Internal Services	43	35	20
Justice	94	100	111
Labour and Advanced Education	186	112	75
Municipal Affairs	48	37	48
Natural Resources	42	44	43
Nova Scotia Business Inc.**	7	5	13
Office of Strategy Management	n/a	n/a	0
Planning and Priorities Office	35	n/a	n/a
Premier's Office	72	33	29
Public Prosecution Service	29	25	18
Public Service Commission	37	25	27
Seniors	13	2	4
Service Nova Scotia	40	13	22
Tourism Nova Scotia**	18	9	11
Transportation and Infrastructure Renewal	77	83	105
Waterfront Development Corporation***	n/a	n/a	3

^{*}Includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development Corporation

[~]As of the time of publication, the name of the Waterfront Development Corporation has been changed to Develop Nova Scotia.

^{**}IAP Services provides access and privacy services to these agencies / crown corporations on a cost-recovery basis.

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Compliance Rate NEW

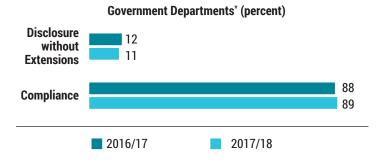
The compliance rate shows how well a department did in meeting its legislated deadlines within the entire 30 to-60-day⁺ timeframe. Taking extra time to process an access request is permitted, provided an authorized extension under the act is formally applied to the process. Therefore, the compliance rate tells us the percentage of files a department processed according to the time deadlines as set out in the legislation.

Rate of Disclosure without an Extension

The rate of disclosure after 30 days (or 60 days) without a valid extension is the flip side of the compliance rate. This disclosure rate measures the rate at which a department takes more time than allowed to process an application without having taken extensions according to the time deadlines as set out in the legislation.

While this disclosure rate is also known as the rate of 'deemed refusal', there is a delay involved in disclosing the responsive records rather than a refusal.

Compliance Rate vs. Rate of Disclosure after 30-60 days without valid extensions



^{*}Includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development Corporation

Note: The compliance rate and the rate of disclosure without valid extensions were not tracked before 2016/17.

30-day Response

The 30-day turnaround rate measures the time it took a department to respond to an applicant in the first 30 days of the process. While compliance, deemed-refusal, and 30-day response rates all need to be tracked, the compliance rate gives the most complete picture of how well a department is performing its duty to adhere to all statutory timelines.

30-day Response Rate

Government Departments* (percent)



^{*}includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development

Number of Applications Completed in 30 days by Government Departments*

	2015/16	2016/17	2017/18
Applications Completed in 0-30 days	1568	1777	1838
Total Applications Completed	1868	2206	2243

^{*}Includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development Corporation

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Extra time is often required to process access requests beyond the 30-day timeline because of the growing complexity of the applications government receives. Complexity may include factors such as the following:

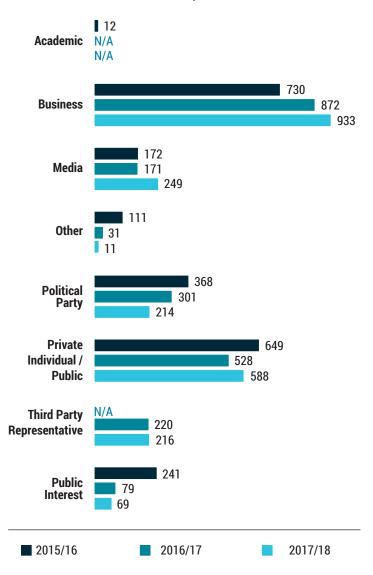
- A request for a wide variety of document types over multiple years means a large volume of records and multiple program areas need to be searched.
- The same application sent to all departments requires broad consultation with other public bodies and in such applications third parties almost always need to be consulted.
- Time is required to consider whether processing fees should be applied.
- The fee-waiver process that follows a fee estimate will take yet more time if an applicant decides to exercise that option.

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Applicant Type

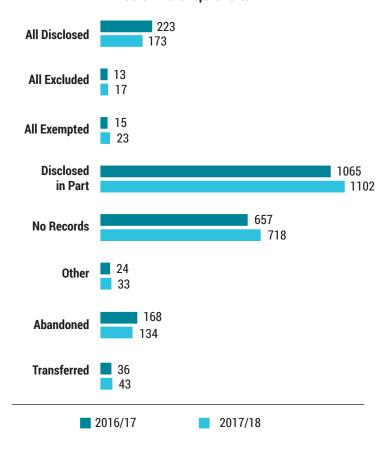
Government Departments*



^{*}Includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development Corporation

Outcomes - Decision Type

Government Departments*



*Includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development Corporation

Note: A new case-management system in 2016/17 introduced changes to how statistical information is displayed, with some categories of decisions being redefined and renamed. Therefore, it is possible to compare the past two years only.

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Fees-Province of Nova Scotia*

	FY 2015/2016	FY 2016/2017	FY 2017/2018
Application Fees		\$8,605	\$9,850
Processing Fees		\$18,396	\$12,718
Total	(estimated) \$32,278	(actual) \$27,001	(actual) \$22,568

^{*}Includes the Art Gallery of Nova Scotia, NSBI, Tourism Nova Scotia, and Waterfront Development Corporation

No fees apply if an applicant asks for their own personal information.

An applicant requesting general information must pay a mandatory application fee of \$5, and additional fees may be charged for processing. The fees cover the work of locating, retrieving, preparing, and shipping the record.

Year-over-year fee totals declined in fiscal 2017/18, a steady downward trend since 2015. Of the 1814 applications for general information last year, processing fees were collected for 61 of them, or 3 percent.

FOIPOP Applications in Review

Of the 2280 access applications received by departments in 2017/18, 2243 were completed and approximately 50 (or 2 per cent) went to review. This is down 1 per cent from fiscal 2016/17, when 64 (3 per cent) of the 2202 applications received by departments requested a review by the oversight body.

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FOIPOP - Other Public Bodies (ABCs, Health Authorities, Universities, Colleges, and School Boards)

Many other public bodies that receive FOIPOP applications track their own applications independently of the statistics kept by government departments. The data presented in this section originated with those that reported their fiscal 2017/18 statistical information to IAP Services.

In some instances, the total number completed may not match the total number of applications received. This is because some applications were abandoned, transferred, or carried over to the next reporting period.

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Applications Received and Completed by Other Public Bodies Under the FOIPOP Act

Agencies, Boards and Commissions	FY 2017/18 Received	FY 2017/18 Completed
Divert NS	0	0
Elections NS	3	0
Halifax-Dartmouth Bridge Commission	3	4
InnovaCorp	-	-
Nova Scotia Human Rights Commission	5	5
Nova Scotia Legal Aid	2	2
Nova Scotia Liquor Corporation	7	7
Nova Scotia Provincial Lotteries and Casino Corporation	0	0
Nova Scotia Securities Commission	-	-
Nova Scotia Utility and Review Board	1	1
Office of the Police Complaints Commissioner	0	0
Serious Incident Response Team	-	-
Trade Centre Limited/ Events East	0	0
Workers' Compensation Board of Nova Scotia	30	29
Total	51	48

Health Authorities		
IWK	22	21
Nova Scotia Health Authority	95	89
Total	117	110

Universities, Colleges and School Boards	FY 2017/18 Received	FY 2017/18 Completed
Annapolis Valley Regional Centre for Education	48	41
Atlantic Provinces Special Education Authority	0	0
Cape Breton University	5	5
Cape-Breton Victoria Regional Centre for Education	8	7
Chignecto-Central Regional Centre for Education	18	15
Conseil scolaire acadien provincial	6	5
Dalhousie University	47	38
Mount Saint Vincent University	7	6
Nova Scotia College of Art and Design	3	3
Nova Scotia Community College	2	1
St. Frances Xavier University	9	9
St. Mary's University	0	0
South Shore Regional School Board	0	0
Straight Regional School Board	12	12
Université Sainte Anne	0	0
University of King's College	0	5
Total	210	190

Note: 0 in the above chart means the public body received no applications; a dash (-) means they did not report statistics to IAP Services

Municipal Government Act - Other Public Bodies (Municipal Entities)

Municipal entities are subject to Part XX (20) of the Municipal Government Act, which is largely similar to the FOIPOP act. These entities track their own applications for access to information independently of the statistics kept by government departments. Municipalities presented the following statistics to IAP Services for fiscal 2017/18. In some instances, the total number completed may not match the total number of applications received. This is because applications were abandoned, transferred, or carried over to the next reporting period.

Applications Received and Completed by Other Public Bodies Under the MGA

Name of Municipality	2017/18 Received	2017/18 Completed
Amherst Police Department	19	19
Annapolis Royal Police	3	3
Bridgewater Police Service	20	21
Cape Breton Regional Municipality	14	11
Halifax Regional Municipality	496	466
Halifax Regional Police	304	304
Halifax Water	3	3
Municipality of Richmond County	0	0
Municipality of the County of Annapolis	6	8
Municipality of the County of Antigonish	1	1

Name of Municipality	2017/18 Received	2017/18 Completed
Municipality of the County of Cumberland	0	0
Municipality of the County of Pictou	0	0
Municipality of the District of Argyle	1	1
Municipality of the District of Barrington	3	3
Municipality of the District of Chester	9	7
Municipality of the District of Digby	2	0
Municipality of The District of Guysborough	0	0
Municipality of the District of Lunenburg	0	0
Municipality of the District of West Hants	0	5
Municipality of the District of Yarmouth	0	0
South Shore Regional Library Board	0	0
Town of Amherst	0	0
Town of Bridgewater	4	4
Town of Digby	0	0
Town of Kentville	3	1
Town of Lockeport	0	0
Town of Mahone Bay	1	1

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Name of Municipality	2017/18 Received	2017/18 Completed
Town of Middleton	2	2
Town of Oxford	0	0
Town of Shelburne	1	1
Town of Stellarton	0	0
Town of Trenton	1	1
Town of Truro	1	1
Town of Westville	0	0
Town of Wolfville	0	0
Town of Yarmouth	0	0
Truro Police Service	15	17
Total	909	880

Note: 0 in the above chart means the public body received no applications; a dash (-) means they did not report statistics to IAP Services

Fees - Other Public Bodies

2017/18	Application Fees	Processing Fees
Other Public Bodies	\$1110	\$3420
Municipal Entities (Municipal Government Act)	\$3830	\$497

Note: Fees reflect both application fees and processing fees that were paid