



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2026-007

March 26, 2026

### Commissioner for Legislative Standards

**Summary:**

The Complainant made an access request to the Commissioner for Legislative Standards (“CLS”) for public disclosure statements and extra benefits statements about members of the House of Assembly. CLS made records available for inspection but refused to provide copies, citing provisions of the **House of Assembly Act**. This Report finds that there was a conflict between the House of Assembly Act and the **Access to Information and Protection of Privacy Act, 2015** (“ATIPPA, 2015”) but that the conflict was resolved by section 7 of ATIPPA, 2015 (conflict with other Acts) and that ATIPPA, 2015 prevails. It is therefore recommended that the responsive records be provided to the Complainant.

**Statutes Cited:**

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c. A-1.2, sections 3, 5, 7, 8, 11, 20, 22, 40, 65, 127 and Schedule A.

[House of Assembly Act](#), RSNL 1990, c.H-10, sections 26, 36, 37, 41, 50.

**Authorities Cited:**

NL OIPC Report [A-2021-028](#).

**Other Resources:**

[Report of the 2014 Statutory Review of the Access to Information and Protection of Privacy Act](#), Queen’s Printer, 2015.

## BACKGROUND

- [1] The Complainant made an access to information request to the Commissioner for Legislative Standards (“CLS”) under the **Access to Information and Protection of Privacy Act, 2015** (“ATIPPA, 2015” or “the Act”), for House of Assembly public disclosure statements for current and former MHAs, on file with CLS under section 37 of the **House of Assembly Act**, and disclosures relating to extra benefits, on file with CLS under section 26 of that Act.
- [2] Disclosure statements are statements of the private property or business interests of each member, held on file at the CLS offices, and available for public inspection. Statements of extra benefits relate to gifts or personal benefits in excess of a certain value received by a member, which must also be disclosed by the member, and are also held on file for public inspection at the CLS offices.
- [3] The Complainant was provided with access, in person, to the most recent section 37 disclosure statements of current members. Access was provided to section 26 disclosure materials relating to those current members. Access was not provided to disclosure statements of previous years, to the section 37 disclosure statements of former members, or to section 26 disclosure materials relating to former members.
- [4] CLS stated that the Complainant has the right under section 37 of that Act to come to its office and view records but refused to give the Complainant copies. The Complainant filed a complaint with our Office.
- [5] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act. The Information and Privacy Commissioner, Kerry Hatfield, delegated authority for this matter to me, as Director of Research and Quality Assurance, pursuant to section 103 of *ATIPPA, 2015*.

## PUBLIC BODY'S POSITION

- [6] CLS takes the position that access to the requested records was properly provided in accordance with the House of Assembly Act. Public disclosures are available for public inspection during normal business hours. Individuals wishing to examine the records are provided access but may not reproduce them. Files are not shared digitally.
- [7] CLS takes the position that former members of the House of Assembly are not “members” once they have left office, and they and their family members are private citizens. CLS does not collect information or disclosures for individuals who are not ministers or members, or their relatives. The records of former members were available for review during their time as members. Now, as former members are private citizens, the request for their disclosure statements is denied pursuant to the mandatory exception to access contained in section 40 of ATIPPA, 2015 (disclosure harmful to personal privacy).
- [8] CLS states that absent an ongoing inquiry by the Commissioner for Legislative Standards or the laying of a charge under the Criminal Code against the member or the member’s family, these records are to be destroyed within one year of the member ceasing to hold office, pursuant to section 41 of the House of Assembly Act.
- [9] CLS notes that because of the timing of the recent election, the access request was made prior to the expiration of the 60 days afforded to newly-elected members to provide disclosure statements to the Commissioner. Some records therefore did not exist at the time of the request.
- [10] CLS notes that under section 5(1)(c) and (e) of ATIPPA, 2015, the Act does not apply to a personal or constituency record of a member of the House of Assembly that is in the possession or control of the member, or to a personal or constituency record of a minister.
- [11] CLS also notes that section 41(a) of ATIPPA, 2015 prohibits disclosure of information where its non-disclosure is required for the purpose of avoiding an infringement of the

privileges of the House of Assembly or a member of the House of Assembly; and section 41(c) prohibits disclosure of records connected with the investigatory functions of a statutory office.

[12] CLS maintains that there is no conflict between ATIPPA, 2015 and the House of Assembly Act. The legislature has explicitly declared, in section 50 of the House of Assembly Act, that information disclosed by a member to the Commissioner for Legislative Standards pursuant to Part II of the House of Assembly Act is excluded from ATIPPA, 2015.

[13] CLS argues that section 50 of the House of Assembly Act is created by section 127 of ATIPPA, 2015. There is no conflict with ATIPPA, 2015 as section 127 must be followed. Section 7 has no application because there is no conflict with another Act or regulation, but rather the legislature has addressed the information at issue in this request in section 127 of ATIPPA, 2015.

[14] CLS also states that publishing these records would remove the reasonable expectation of privacy for individuals who did not consent to be part of public life.

### **COMPLAINANT'S POSITION**

[15] The Complainant states that the access request was for, and the Complainant is entitled to, not just the most recent public disclosure statements, but all annual statements on file for each current and former members and their families.

[16] The Complainant argues that the House of Assembly Act creates a two-tier regime of disclosure of records, that simultaneously protects the privacy necessary for candid compliance and maintains public accountability.

[17] The Complainant argues that during the 12-month period following a member's departure from office, the records are both required to be retained and required to remain publicly available. The act of making the record public under section 37(4) occurred during the member's tenure and created a right of public access to that filed record.

[18] The Complainant argues that public disclosure statements are the only mechanism by which a member of the public can verify that MHAs have discharged their statutory conflict of interest obligations. They disclose the nature and existence of private interests – corporate holdings, professional relationships, family financial connections – that may intersect with the MHA's legislative and executive functions. Without access to these records, a member of the public cannot determine whether an MHA who voted on legislation affecting a regulated industry held an interest in that industry, whether a minister who made a procurement decision had a disclosed relationship with a contractor, or whether an MHA who subsequently joined a government-regulated entity as a director had disclosed that interest before leaving office.

[19] With respect to the privacy issue, the Complainant argues that under ATIPPA, 2015 section 40(2)(d) the disclosure of personal information is not an unreasonable invasion of privacy where the disclosure is authorized by or pursuant to another Act, and that section 37(4) of the House of Assembly Act is such an authorization.

[20] The Complainant questions, however, whether there is a conflict between ATIPPA, 2015 and section 50 of the House of Assembly Act and whether it can be resolved.

## ISSUES

[21] The following issues will be examined in this Report:

- Whether the requested records are subject to a privilege;
- Whether the requested records are within the custody or control of CLS;
- Whether an alternate process for access to the records prevails;
- Whether ATIPPA, 2015 prevails in any conflict with another Act;
- What is the proper interpretation of consequential amendments;
- Whether the responsive records are “published records”;
- Whether a requirement for the destruction of records applies; and
- Whether any exceptions to access should be applied to disclosed records.

## DECISION

[22] The Commissioner for Legislative Standards is a statutory Officer of the House of Assembly, appointed under the House of Assembly Act. CLS has responsibilities under three provincial statutes: the **House of Assembly Act**, the **House of Assembly Accountability, Integrity and Administration Act**, and the **Conflict of Interest Act, 1995**, and reports annually on the affairs of the Office to the Speaker of the Assembly.

[23] Elected members of the House of Assembly are required, under section 36 of the House of Assembly Act, to file with the CLS a disclosure statement listing their private interests, to guard against any real or perceived conflicts of interest.

36. (1) Every elected member and appointed minister shall,

- (a) within 60 days of his or her election or appointment; and
- (b) before the second April 1 occurring after the date of his or her election or appointment; and
- (c) before each April 1 subsequent to the date referred to in paragraph (b), file with the commissioner a disclosure statement in the form set by the commissioner.

(2) The disclosure statement shall contain,

- (a) a full statement of the member's private interests other than personal property referred to in subparagraph 20(a)(iv) where the possession, ownership or use of that property does not give rise to the possibility of a conflict of interest;
- (b) the audited financial statement of the assets, financial interests and liabilities of
  - (i) a corporation in which the member and the member's family together hold 10% or more of the shares,
  - (ii) a partnership in which the member and the member's family together hold a 10% or more interest, and
  - (iii) a partnership or corporation controlled by a partnership or corporation referred to in subparagraph (i) or (ii);
- (c) a statement, to the best of the member's knowledge, information and belief, of each private interest of the member's family.

- (3) The statement referred to in paragraph (2)(c) shall contain
  - (a) a full statement of the private interests of the member's family;
  - (b) the audited financial statement of the assets, financial interests and liabilities of
    - (i) a corporation in which the member's family holds 10% or more of the shares,
    - (ii) a partnership in which the member's family holds a 10% or more interest, and
    - (iii) a partnership or corporation controlled by a partnership or corporation referred to in subparagraph (i) or (ii).
- (4) A material change to information required to be disclosed to the commissioner under this section, shall be reported to the commissioner in writing by the member not more than 60 days after the change occurs.
- (5) A disclosure statement made under this section is privileged except to the extent necessary to insure compliance with this Part.
- (6) After reviewing the disclosure statement received from a member the commissioner may require that the member meet with the commissioner to ensure that adequate disclosure has been made and to discuss the member's obligations under this Part.

[24] Under section 37 of the House of Assembly Act, after receiving the required disclosure from a member, CLS prepares a “public disclosure statement” containing some of the information provided by the member:

- 37.(1) The commissioner shall prepare a public disclosure statement for each member, which shall be submitted to the member for review.
- (2) The public disclosure statement shall identify each private interest other than an excluded private interest of the member and the member's family disclosed to the commissioner by the member, but shall not show the amount or the value of a private interest.
- (3) An interest may be qualified in the public disclosure statement by the words "nominal", "significant" or "controlling" where in the opinion of the commissioner it would be in the public interest to do so.

- (4) The public disclosure statement of each member shall then be placed on file at the office of the commissioner, and made available for public inspection during normal business hours.

[25] It is these “public” disclosure statements and the benefits statements created under section 26, not the section 36 disclosure statements, that are the subject of the access request in the present complaint.

[26] As the Complainant has persuasively argued in their submissions (see paragraph 18, above) public disclosure statements are the mechanism by which a member of the public can verify that MHAs have discharged their statutory conflict of interest obligations. Ensuring that citizens have the information required to participate meaningfully in the democratic process, and increasing transparency in government, are fundamental purposes of access to information legislation, as stated in section 3 of ATIPPA, 2015.

### **Privilege**

[27] Under section 36(5) above, it is stated that a disclosure statement “made under this section” is privileged. As CLS notes, section 41 of ATIPPA, 2025 also provides that:

41. The Speaker of the House of Assembly, the officer responsible for a statutory office, or the head of a public body shall refuse to disclose to an applicant information
- (a) where its non-disclosure is required for the purpose of avoiding an infringement of the privileges of the House of Assembly or a member of the House of Assembly;

[28] In other circumstances it might be necessary to consider what type of privilege is meant by the provision in section 36(5), and what consequences for access or disclosure might flow from that. However, in the present case it is clear that the access request is not for the disclosure statements created by the member under section 36. Rather, the access request is for copies of records created under section 37. Those records are different from the records created under section 36 and are not subject to any statement of privilege. Therefore section 41(a) does not apply to those records, and so it is not necessary to consider the privilege issue further in the present report.

## Custody or Control

[29] ATIPPA, 2015 provides in section 8 that a person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body:

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

[30] The records requested by the Complainant are in the custody or control of CLS, since they were created by CLS, pursuant to section 37 of the House of Assembly Act, from information that is required by that Act to be provided to CLS by individual members of the House. The records are in the physical possession and control of CLS.

[31] Section 5(1)(c) of the Act states:

5. (1) This Act applies to all records in the custody of or under the control of a public body but does not apply to

...

(c) a personal or constituency record of a member of the House of Assembly, that is in the possession or control of the member;

[32] The requested records are not excluded from the operation of ATIPPA, 2015 by that provision, because they are not a personal or constituency record, and because in any case they are not in the possession or control of the member. Therefore the Complainant has a right under section 8 of ATIPPA, 2015 of access to those records and also, under section 20(1)(a) of the Act, to be given copies of those records:

20. (1) Where the head of a public body informs an applicant under section 17 that access to a record or part of a record is granted, he or she shall

(a) give the applicant a copy of the record or part of it, where the applicant requested a copy and the record can reasonably be reproduced;

## Alternate Process for Access

[33] As CLS states, section 37(4) of the House of Assembly Act provides that public disclosure statements are made available for public inspection. However, that provision is not a restriction on access, but simply provides for a different form of disclosure. The existence of

that alternate process cannot displace the right of access to records provided under section 8 of ATIPPA, 2015 (see [Report A-2021-028](#)). Section 5(2)(a) of ATIPPA, 2015 states that:

5(2) This Act

(a) is in addition to existing procedures for access to records or information normally available to the public, including a requirement to pay fees;

[34] That means that a person who wants access to those records may choose whether to avail of the House of Assembly Act procedure, or to make an ATIPPA, 2015 access request. A person may even do both, as indeed the present Complainant has tried to do.

### **Conflict with Other Acts**

[35] Section 50 of the House of Assembly Act sets out a restriction on the right of access to records provided by section 8 of ATIPPA, 2015:

50. Information disclosed by a member or the member's family to the commissioner under this Part or a regulation made under this Part or in the course of the administration of this Part shall not be disclosed under the *Access to Information and Protection of Privacy Act, 2015* or otherwise than in accordance with this Part.

[36] Clearly, that provision creates a conflict between the House of Assembly Act and the access provisions of ATIPPA, 2015. However, ATIPPA, 2015 itself provides, in section 7, the means of dealing with all such conflicts:

7. (1) Where there is a conflict between this Act or a regulation made under this Act and another Act or regulation enacted before or after the coming into force of this Act, this Act or the regulation made under it shall prevail.

(2) Notwithstanding subsection (1), where access to a record is prohibited or restricted by, or the right to access a record is provided in a provision designated in Schedule A, that provision shall prevail over this Act or a regulation made under it.

(3) When the House of Assembly is not in session, the Lieutenant-Governor in Council may by order amend Schedule A, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly.

[37] Section 7 provides that in all such conflicts, ATIPPA, 2015 prevails, unless the conflicting provision in the other Act is designated in Schedule A to ATIPPA, 2015. Many specific provisions of two dozen other statutes, from the Adoption Act to the Workplace Health, Safety and Compensation Act, create restrictions or prohibitions on the right of access under ATIPPA, 2015, or create alternate forms of disclosure, and have been designated under Schedule A. In all such cases the designated provision prevails over ATIPPA, 2015.

[38] This is a clear and easily implemented method of resolving conflicts with other Acts. The process requires two legislative actions, both of which must be completed in order to ensure that another Act prevails: first, the legislature must create a provision in the other Act containing a prohibition or restriction on access that conflicts with ATIPPA, 2015. Second, that provision is and remains ineffective unless, at some time prior to the access request, the legislature has designated that provision of the other Act in Schedule A to ATIPPA, 2015.

[39] This conflict resolution process was deliberately and consciously designed so that provisions intended to prevail over ATIPPA, 2015 could only be designated by the legislature, not by the executive branch of government: see the [Report of the 2014 Statutory Review Committee](#), page 169:

Giving government the power to declare that other statutes and regulations will prevail over that statute is inconsistent with its purpose. For that reason, the Committee concluded that the ATIPPA should be amended to remove that regulation-making power from the Lieutenant-Governor in Council and provisions that are to prevail over the ATIPPA should be identified by the House of Assembly.

[40] Section 50 of the House of Assembly Act has never been designated in Schedule A. Therefore the right of access to records in ATIPPA, 2015 prevails over the House of Assembly Act. That means that an applicant has a right of access to the requested records notwithstanding the provisions of the House of Assembly Act (subject of course to any limiting provision of ATIPPA, 2015, such as applicable exceptions to access).

### **Consequential Amendments**

[41] CLS has argued that there is no conflict between ATIPPA, 2025 and the House of Assembly Act, that section 50 of the House of Assembly Act is created by section 127 of ATIPPA, 2015,

and that section 127 must be followed. With respect, this reflects a misunderstanding of the function of consequential amendments in legislation. Section 127 reads as follows:

127. Section 50 of the House of Assembly Act is repealed and the following substituted:

Information exempt

50. Information disclosed by a member or the member's family to the commissioner under this Part or a regulation made under this Part or in the course of the administration of this Part shall not be disclosed under the *Access to Information and Protection of Privacy Act, 2015* or otherwise than in accordance with this Part.

[42] Sections 119 to 135 of ATIPPA, 2015, including section 127, are what are known as consequential amendments. They are made to existing statutes to ensure consistency, compatibility, and proper cross-referencing following the passage of new legislation. They represent an effort made by the drafters of the statute to foresee the effect that passage of the new Act will have on other currently existing statutes. Thus, for example, several of those provisions simply change the name of the old Act to that of the new Act. Others have more significant consequences.

[43] However, while these consequential amendments are found in sections of ATIPPA, 2015, they are not amendments to ATIPPA, 2015, but amendments to the other Acts – in the present case, to the House of Assembly Act. A consequential amendment is a part of the Act that is amended, not a part of the Act in which it appears.

[44] Section 127, and many other consequential amendments are contained in ATIPPA, 2015, in order to systematically effect desired changes to other Acts without having to pass two dozen separate bills. However, such legislative provisions could also be contained in other Acts, passed before or after ATIPPA, 2015, and they would have the same effect.

[45] In order to determine whether an amendment to another Act, or indeed any provision in another Act, creates a conflict between ATIPPA, 2015 and the other Act, it must be read in the context of the other Act as a whole. If it does create a conflict, as we have concluded that it

does in the present case, it is then necessary to refer to section 7 of ATIPPA, 2015 and Schedule A, to determine how the conflict is to be resolved.

[46] Upon review of Schedule A, provisions of various other Acts have been added to or removed from Schedule A in the ten years since ATIPPA, 2015 came into force. As an example of how this process works, section 125 of ATIPPA, 2015 was a consequential amendment that changed section 5.4 of the Energy Corporation Act, to create restrictions on the power of the Commissioner and to create an alternate procedure in relation to access requests. That provision was then designated in Schedule A, and therefore prevailed over ATIPPA, 2015.

[47] Subsequently, however, the legislature passed the Hydro Corporation Act, 2024. It replaced the Energy Corporation Act, which was repealed. Section 125 is still in ATIPPA, 2015, but it now has no effect, because the designation of the Energy Corporation Act was removed from Schedule A. In its place is section 31 of the new Hydro Corporation Act, which is similar to section 5.4 of the previous Energy Corporation Act. It is not referenced in ATIPPA, 2015. It was, however, designated in Schedule A in 2024, and so it prevails over ATIPPA, 2015.

### **Publication**

[48] Section 22 of ATIPPA, 2025 provides that a public body may refuse access to a record that “is published and is available to the public whether without cost or for purchase”. This provision is routinely used by public bodies to refuse to provide copies of certain kinds of records, such as minutes of municipal council meetings that are posted on a town website, or materials that can be ordered from the public body or purchased at a bookstore.

[49] However, a record that is “available for inspection” is not “published and available to the public” unless a member of the public can obtain a copy of it. For example, municipalities are required to make many kinds of records available for inspection under the Towns and Local Service Districts Act, but with a few exceptions, municipalities must provide physical or electronic copies of such records upon request. Section 20 of ATIPPA, 2015, as referred to above, requires a public body to provide copies of records on request, subject to certain limitations that are not applicable here.

## Records of Former Members

[50] CLS has argued that the access request should only apply to records about current members of the House of Assembly or their family members, but not to records about former members and their families. Nothing in either the House of Assembly Act or ATIPPA, 2015 mandates such a distinction. The focus of an access request is on the requested records themselves, not on the people to whom they may pertain. As the Complainant observes, a public disclosure statement filed during a member's tenure does not somehow become a private document when the member subsequently leaves office. On the contrary, they are required to be retained for a year after the member leaves office (see below). Those records, pertaining to both present and former members and their families, are in the custody or control of CLS. All of those records, including records created in previous years, are responsive to the access request and must be provided (subject to any applicable exceptions).

## Destruction of Records

[51] Section 41 of the House of Assembly Act provides as follows:

41. The commissioner shall retain all documents in the possession of the commissioner that relate to a member or the member's family for a period of 12 months after a member ceases to be a member, after which the commissioner shall destroy all documents in his or her possession that relate to the member or the member's family, unless there is an inquiry current under this part or a charge has been laid against the member or the member's family under the *Criminal Code* to which the documents relate or may relate.

[52] We note, contrary to the argument made by CLS, that section 41 does not state that the Commissioner must destroy records of former members within a year. Rather, it requires the Commissioner to retain those records for a year after the person ceases to be a member, and it is only after that year that they are to be destroyed.

[53] Furthermore, ATIPPA, 2015, section 65 requires a public body to retain personal information that is subject to an access request, for as long as necessary to exhaust any recourse under the Act. Because ATIPPA, 2015 prevails over the House of Assembly Act, if resolution of this complaint (potentially including an appeal to the courts) were to take longer than a year, the public body must retain the record.

## Redaction of Records

[54] While the disclosure of records is, of course, always subject to any applicable exceptions to access, the responsive records in the present case have not been provided to the Complainant. If CLS complies with the recommendations in this Report and provides a copy of the records to the Complainant, any decision to redact information from those records constitutes a new decision which could then be the subject of a new complaint.

## Conclusion

[55] In the result we conclude that the objections to the disclosure of the requested records must fail, and that the Complainant is entitled to be provided with copies of the requested records.

## RECOMMENDATIONS

[56] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the Commissioner for Legislative Standards provide to the Complainant all public disclosure and extra benefits records created under sections 26 and 37 of the House of Assembly Act, in its custody at the time of the access request, subject to any necessary applicable redactions.

[57] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Commissioner for Legislative Standards must give written notice of his or her decision with respect to these recommendations to this Office and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[58] Dated at St. John's, in the Province of Newfoundland and Labrador, this 25<sup>th</sup> day of March, 2026.



Sean Murray  
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Office of the Information and Privacy Commissioner  
Newfoundland and Labrador