

# PHIA Guidelines

## Managing Your Privacy Complaint

These are guidelines to assist you in understanding the privacy complaint process under the **Personal Health Information Act (PHIA)**. You can find additional resources on our [website](#).

### Privacy Complaints

A person may make a privacy complaint to the Office of the Information and Privacy Commissioner (OIPC) if they believe, on reasonable grounds, that a custodian (a person or organization who holds personal health information) has contravened or is about to contravene PHIA in respect of personal health information. Such contravention includes improper collection, use, or disclosure of personal health information or a privacy breach.

### Remedies

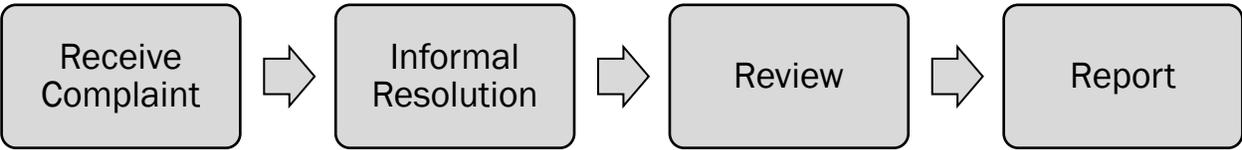
Following an investigation of a privacy complaint, the Commissioner may recommend that a custodian stop collecting, using, or disclosing personal health information or destroy personal health information in its custody. The Commissioner may also make recommendations related to a custodian’s information practices, policies, or procedures.

A privacy investigation cannot undo a breach of privacy.

OIPC does not have the authority to require apologies, disciplinary action, compensation, penalties, or other sanctions.

### The Complaint Process

1. OIPC receives your complaint. We will provide your complaint to the custodian and it will have 14 days to respond. We will notify you that we have started an investigation and you will also have 14 days to make any submissions or arguments in support of your position.
2. OIPC will generally work with you and the custodian to try to reach an informal resolution of your complaint.
3. If we have not resolved the complaint, OIPC may conduct a review of any unresolved issues.
4. If necessary, OIPC will issue a Commissioner’s report with recommendations for the custodian.



We explain the steps in this process in more detail below.

## Receiving a Complaint and Making Submissions

After our Office receives your complaint, we will assign it to an Access and Privacy Analyst (Analyst). The Analyst will contact you to confirm that we have received your complaint and have started an investigation. You will then have 14 days to provide any written submissions you wish to make to OIPC.

You may have provided details of your allegations that the custodian improperly collected, used, or disclosed personal health information with your complaint. However, if you feel more information or arguments are necessary, your written submissions are your opportunity to provide this information.

Upon receiving your complaint, the Analyst will also forward your complaint to the custodian and request its submissions.

Your written submissions may be your only opportunity to put forward your position to OIPC. If you do not provide submissions within 14 days, the investigation will proceed based on the information available to OIPC. If you are unable to provide written submissions, you should contact the Analyst assigned to your complaint to discuss alternatives. If there is any information in your submissions that you do not wish OIPC to disclose to the custodian, you should notify the Analyst. Although you may provide any information to the Analyst that might help them investigate your complaint, it is not mandatory that you provide written submissions.

## Informal Resolution

The Analyst will usually focus on resolving the matter informally within a reasonable period of time.

During informal resolution, the Analyst will use your submissions as well as the submissions we receive from the custodian to understand the nature of the complaint and attempt to identify possible opportunities to resolve your complaint in a way that satisfies both you and the custodian. Generally, the Analyst will provide you and the custodian with an assessment after reviewing your submissions and the custodian's submissions.

During our efforts at informal resolution, it is important that you respond promptly to the Analyst's questions or requests. If you do not participate in this process we may proceed to a review without your input. The Commissioner may also decide to refuse to investigate your complaint.

Possible informal resolution of a complaint may include:

- the custodian acknowledging a privacy breach and filing a breach report with our Office;
- the custodian taking steps to stop collecting, using, or disclosing certain personal health information;

- the custodian agreeing to review or make changes to its information practices, policies, or procedures; or
- other outcomes that are agreeable to you and the custodian and compliant with PHIA.

In some cases, our initial assessment of a complaint may conclude that PHIA authorizes the custodian's collection, use, or disclosure of your personal health information and you may choose to conclude your complaint on that basis.

## Review

If there are any issues in your complaint that we have not resolved in the informal resolution period, then our Office may conduct a review and, if necessary, issue a report with the Commissioner's recommendations. If the Analyst believes more information is necessary, they will ask you to provide further submissions and give you a deadline. We might not consider submissions that we receive after that deadline.

The Commissioner may decide not to conduct a review in limited circumstances under section 67(3) of PHIA. Should the Commissioner make this decision, we will notify you of the reason.

## Commissioner's Report

If necessary, our Office may write and release a report of our findings following an investigation of your privacy complaint. OIPC publishes Commissioner's reports on our website and we will send you a copy.

OIPC will consider your submissions and the custodian's submissions during the report process. We may quote your submissions in the Commissioner's report. If you have provided submissions or other information that you feel is confidential that you do not want us to quote, you should notify the Analyst. However, procedural fairness requires the Commissioner to provide reasons for any decisions and recommendations. Therefore, we may still need to explain your position on the matter in the report. We will not name you in the report.

The Commissioner's report may contain recommendations that the custodian:

- stop collecting, using, or disclosing personal health information in contravention of PHIA;
- destroy personal health information it collected in contravention of PHIA;
- implement, modify, or stop an information practice, policy, or procedure;
- not begin an information practice, policy, or procedure; or
- take other actions related to the privacy aspect of the complaint.

The Commissioner may decide not to make any recommendations. If there are no recommendations, the report will explain why.

After the custodian receives the Commissioner's report with recommendations, it has 15 days to decide whether it will follow the Commissioner's recommendations. Regardless of the

custodian's decision, the custodian must give written notice of its decision to you and our Office.

If you have any questions or concerns about the complaint process, please do not hesitate to contact our Office at:

Office of the Information and Privacy Commissioner  
PO Box 13004, Station A  
St. John's, NL A1B 3V8  
Phone: (709) 729-6309 Fax: (709) 729-6500  
Toll Free: 1-877-729-6309  
[commissioner@oipc.nl.ca](mailto:commissioner@oipc.nl.ca)  
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