

IMPLEMENTATION TABLE FOR ATIPPA REVIEW COMMITTEE'S 90 RECOMMENDATIONS (2015)

RECOMMENDATIONS	IMPLEME- NTATION	COMMENTARY
Recommendation #1: Purpose of the Act be expanded to facilitate democracy by increasing transparency and ensuring the public has access to information required to participate meaningfully in the democratic process.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #2: ATIPP Coordinator delegated authority for solely handling ATIPP requests for each public body.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #3: No officials other than the ATIPP Coordinator be involved in the request unless they are assisting in locating records or providing advice in connection with the matter.	Complete	
Recommendation #4: Anonymize identity and type of requestor, except if a personal request where identity is required to respond to request.	Complete	
Recommendation #5: Head of public body provide the ATIPP Coordinator with instructions in writing as to the duty to provide maximum level of assistance to the requester.	Complete	
Recommendation #6: <ul style="list-style-type: none"> • Remove \$5 application fee • Processing fees remain at \$25/hour • Can only charge for searching records (not for reviewing, severing, etc.) • First 15 hours free for public bodies; municipalities 10 free hours 	Complete	
Recommendation #7: The Office of the Information and Privacy Commissioner create guidelines for public bodies on how to process requests that take longer than the free amount of time provided.	Complete	
Recommendation #8: Create online application and payment process where feasible.	Substantially Complete	Online application launched June 1, 2015. Online payment process is currently being developed.
Recommendation #9: Section 13 (repetitive and incomprehensible requests) and s.43.1 (disregarding requests) be combined into one section	Complete upon Royal Assent	

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providing public bodies the ability to disregard requests with authorization from the Commissioner.	(June 1, 2015)	
<p>Recommendation #10: Public Interest Override: provides that discretionary exceptions available to a public body to refuse to disclose information to an applicant does not apply where it is "clearly demonstrated that the public interest in disclosure outweighs the reason for exception".</p> <p>Exceptions include: local body confidences, policy advice or recommendations, legal advice, confidential evaluations, disclosure harmful to intergovernmental relations or negotiations, disclosure harmful to the financial/economic interests of public body, disclosure harmful to conservation and disclosure harmful to public relations interests of a public body as employer.</p>	Complete upon Royal Assent (June 1, 2015)	
<p>Recommendation #11: The Office of the Information and Privacy Commissioner provide training for public bodies and develop a guidance manual on public interest test and how to be applied</p>	Substantially Complete	Guidance document complete and initial training complete. Additional training is anticipated.
<p>Recommendation #12: Removal of protection of briefing books for ministers assuming a new portfolio and for preparing for a sitting in the HOA.</p>	Complete upon Royal Assent (June 1, 2015)	
<p>Recommendation #13: Separate briefing books factual elements from policy advice.</p>	Complete	
<p>Recommendation #14: Protection of Cabinet Records concept maintained, except for factual and background sections of "a discussion paper, policy analysis, proposal, advice or briefing material prepared for the Cabinet"; also removes supporting/discontinued/removed categories of Cabinet Record.</p>	Complete upon Royal Assent (June 1, 2015)	
<p>Recommendation #15: With all other records that are not Cabinet Records, information in those records which reveals "substance of Cabinet deliberations" not to be disclosed.</p>	Complete upon Royal Assent (June 1, 2015)	
<p>Recommendation #16: Applicant who has been refused records on the</p>	Complete upon	

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basis of Cabinet confidences may appeal to either the Commissioner or Court.	Royal Assent (June 1, 2015)	
Recommendation #17: Clerk has discretion to disclose any Cabinet record where satisfied the public interest in disclosure of the record outweighs the reason for the exception.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #18: Retain current 20 year limit on release of Cabinet records	Complete upon Royal Assent (June 1, 2015)	
Recommendation #19: Consistent with Open Government policy, GNL proactively release as much Cabinet material as possible, particularly matters considered routine.	In Progress	Options are being developed for Cabinet consideration.
Recommendation #20: Incomplete formal research reports where a request or order for completion has been made within 65 business days of receiving the report can be withheld.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #21: Remove reference to discretion to refuse to disclose information that would reveal consultations or deliberations involving officers or employees of a public body, a minister or the staff of a minister.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #22: The revised Act contain a provision similar to existing section 21 respecting solicitor-client privilege.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #23: No restriction on the right of Commissioner to require production of solicitor-client privileged records and considered relevant to the investigation of a complaint.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #24: Solicitor-client privilege of the record produced to the Commissioner shall not be affected by disclosure to the Commissioner pursuant to the Act.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #25: An applicant can request the Commissioner to review GNL decision to refuse to release records on the basis of solicitor-client privilege.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #26: If the Commissioner recommends release of	Complete upon	

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solicitor-client privileged records the public body must, within 10 business days, either release the information or apply to a judge in the Trial Division for a declaration that the public body is not required, by law, to provide the record.	Royal Assent (June 1, 2015)	
Recommendation #27: Provisions requiring that the application to the Trial Division for a declaration be heard by use of the most expeditious summary procedures available in the Trial Division.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #28: Public bodies cannot impose any conditions on access to solicitor-client privileged records by the Commissioner, unless there is a reasonable basis for concern about the security of the records, in which case the public body can require the Commissioner to view the records at a site specified by the public body	Complete upon Royal Assent (June 1, 2015)	
Recommendation #29: Prohibit disclosure by a public body of information that is subject to solicitor-client privilege of a person that is not a public body.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #30: s.27 revert to the pre-Bill 29 three part harm test	Complete upon Royal Assent (June 1, 2015)	
Recommendation #31: s.28 wording revert to pre-Bill 29 requirement to notify if the public body intends to disclose information rather than if they are considering whether s.27 applies.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #32: All categories of records that the Act does not apply to will continue to not apply to ATIPPA.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #33: Add an additional category of information that ATIPPA does not apply to - a record relating to an investigation by the RNC in which suspicion of guilt of an identified person is expressed but no charge was ever laid, or relating to prosecutorial consideration of that investigation.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #34: The Commissioner cannot review the following records which fall outside the scope of the Act: Court records; records of a	Complete upon Royal Assent	

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person acting in a judicial or quasi-judicial capacity; prosecution records if all proceeding are incomplete; RNC investigation records where investigation is incomplete; and records relating to RNC confidential source of information.	(June 1, 2015)	
<p>Recommendation #35: The Commissioner can review the following records which fall outside the scope of the Act:</p> <ul style="list-style-type: none"> • Personal or constituency records of a member of the HOA • Records of a registered political party or caucus; • Personal or constituency record of a minister; • Question to be used on an examination or test; and • Materials placed in provincial or public body archives by or for a person, agency or organization other than a public body. 	Complete upon Royal Assent (June 1, 2015)	
Recommendation #36: The Commissioner be given additional authority to enter offices of a public body to access and review records that fall outside the scope of the Act listed under recommendation 35, but not records listed under recommendation 34.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #37: 6 legislative provisions that prevail over ATIPPA removed (subsections from the <i>Aquaculture Act and Regulations; Lobbyist Registration Act; Mining Act; Royalty Regulations, 2003; and Revenue Administration Act</i>).	Complete upon Royal Assent (June 1, 2015)	
Recommendation #38: All legislative provisions other than the 6 listed in recommendation 37 continue to prevail over the ATIPP Act.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #39: List of legislative provisions that prevail over the ATIPP Act be listed in a schedule to the Act rather than in the regulations.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #40: Add a provision requiring production records or right of entry relating to exceptions of disclosure claimed under a provision of another Act that prevails over ATIPPA.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #41: Add provision requiring that every 5-year review of the legislation include requirement to review legislative provisions that	Complete upon Royal Assent	

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prevail over ATIPPA.	(June 1, 2015)	
Recommendation #42: Add section allowing Lieutenant-Governor in Council (when the HOA is not in session) to add a legislative provision to the list of provisions that prevail over ATIPPA. However, this cannot continue in force beyond the end of the next sitting of the HOA	Complete upon Royal Assent (June 1, 2015)	
Recommendation #43: Removal of 4 circumstances under which the Lieutenant-Governor can make regulations: <ul style="list-style-type: none"> • Setting standards including time limits in fulfilling duty to assist applicants; • Establishing a schedule of public bodies subject to the Act; • Designating a provision of an Act or Regulation to prevail over ATIPPA; and • Defining "personal health information" 	Complete upon Royal Assent (June 1, 2015)	
Recommendation #44: <ul style="list-style-type: none"> • Consider placing a bill before HOA to amend s.5.4(1) of the <i>Energy Corporation Act</i>; and s.21 of the <i>Research and Development Council Act</i> to include the phrase "taking into account sound and fair business practices" immediately before the words "reasonably believes" in each of those sections. • More information relating to justification for s.8.1 of the <i>Evidence Act</i>; s.5(1) of the <i>Fish Inspection Act</i>; s.4 of the <i>Fisheries Act</i>; and s.13 of the <i>Statistics Agency Act</i> be provided to the next Review Committee for any of those provisions that still prevail over ATIPPA. 	Complete upon Royal Assent (June 1, 2015)	<i>Energy Corporation Act</i> and <i>Research and Development Council Act</i> amended as part of <i>ATIPPA, 2015</i> . The second recommendation relates to the next statutory review.
Recommendation #45: Require reasonable effort to notify third party of impending release of their personal information	Complete upon Royal Assent (June 1, 2015)	
Recommendation #46: OPE & FES-NL examine how information rights (access & privacy) can be protected during emergencies	In Progress	Research is underway to investigate how other jurisdictions protect privacy in emergency situations with an aim to developing

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		policies on this matter within the coming months.
Recommendation #47: Expand the method by which an individual can be informed of a public body's decision to release information for health or safety reasons	Complete upon Royal Assent (June 1, 2015)	
Recommendation #48: Report all privacy breaches to the Office of the Information and Privacy Commissioner; and notify affected individuals where there is risk of significant harm	Complete upon Royal Assent (June 1, 2015)	This recommendation was implemented for government departments in March 2015.
Recommendation #49: Include indemnity clause for MHAs acting in good faith on behalf of a constituent	Complete upon Royal Assent (June 1, 2015)	
Recommendation #50: Remove the firm provision allowing for the release of personal information 20 years after an individual's death; and impose a harms test.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #51: Return to the pre-Bill 29 requirement to release the "remuneration" of civil servants as opposed to "salary range" (with remuneration meaning salary and benefits)	Complete upon Royal Assent (June 1, 2015)	
Recommendation #52: Office of the Information and Privacy Commissioner to study continued use of social media by public bodies and make recommendations	Not Commenced	Work is expected to commence following an internal reorganization of the Office of the Information and Privacy Commissioner.
Recommendation #53: GNL consider labour standards legislation to protect personal information of employees held by employers	In Progress	Significant policy work is required to address this recommendation. The Labour Relations Agency is considering the matter.
Recommendation #54: The Office of the Information and Privacy Commissioner recommendation power maintained however de facto order power relating to public body refusal to disclose as GNL must either	Complete upon Royal Assent (June 1, 2015)	

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accept Office of the Information and Privacy Commissioner's recommendations or bring a Court application to confirm its decision. The Office of the Information and Privacy Commissioner has expanded powers with respect to Cabinet records, fee and timelines and consideration of frivolous and vexatious requests).		
Recommendation #55: Powers of the Office of the Information and Privacy Commissioner increased to reflect proposals discussed elsewhere in report	Complete upon Royal Assent (June 1, 2015)	
Recommendation #56: The Office of the Information and Privacy Commissioner adopt the changes in procedures and practices presently employed in the Commissioner's review process that are necessary to reflect comments of the Committee (i.e. timelines)	Complete	
<p>Recommendation #57:</p> <ul style="list-style-type: none"> • Timeline extensions must receive prior approval of the Office of the Information and Privacy Commissioner. Within 15 business days GNL must now apply to the Office of the Information and Privacy Commissioner to extend the timeline (20 business days). The Office of the Information and Privacy Commissioner has 3 days to respond to a request and may determine to extend "where necessary and reasonable". However there is no suspension of the 20 day timeline during the application to the Office of the Information and Privacy Commissioner for an extension. • Public bodies must receive prior Commissioner approval to disregard requests. Public bodies have 5 business days to file request with the Office of the Information and Privacy Commissioner to disregard request on the basis of frivolous and vexatious. 	Complete upon Royal Assent (June 1, 2015)	
Recommendation #58: Strengthen and clarify the advocacy role of the Commissioner respecting the prioritization of access/protection for requesters (conduct investigation on their own initiative and review compliance with act and regulations).	Complete upon Royal Assent (June 1, 2015)	
Recommendation #59: House of Assembly Appointment (and reappointment) procedure involving majority votes by all parties.	Complete upon Royal Assent	

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	(June 1, 2015)	
Recommendation #60: Timeline of appointment 6 years with one reappointment.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #61: The Information and Privacy Commissioner to have the status of a Deputy Minister.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #62: Commissioner be paid 75% of provincial court Judge salary and, apart from pension, additional benefits as provided to a DM.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #63: Commissioners who is not subject to public pensions act prior to appointment be paid contribution to RRSP equivalent to an amount under the public pension plan.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #64: In relation to access, the Commissioner has additional role of promoting and advocating efficient and timely responses to requested information	Complete upon Royal Assent (June 1, 2015)	
<p>Recommendation #65: In relation to privacy, the Commissioner has additional role of:</p> <ul style="list-style-type: none"> • reviewing and authorizing additional sources for collection of information; • ability to review privacy complaints made on behalf of an individual with their consent or if the Commissioner deems it appropriate; • ability to recommend that a public body destroy information or stop collecting, using or disclosing personal information. 	Complete upon Royal Assent (June 1, 2015)	
<p>Recommendation #66: In relation to general role, the Commissioner can:</p> <ul style="list-style-type: none"> • Have a banking system to deal with circumstances where an individual continues to file complaints while that person has more than 5 complaints outstanding; • Educate the public; • Engage in or commission research; • Auditing the practices of public bodies; 	Complete upon Royal Assent (June 1, 2015)	

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<ul style="list-style-type: none"> • GNL must consult Commissioner when introducing a new Bill to obtain advice on whether there are any implications for access or privacy; • Make special reports at any time on any matters affecting the operations of ATIPPA 		
Recommendation #67: The Office Information and Privacy Commissioner annual report can include information relating to systematic and other issues raised by the Commissioner	Complete upon Royal Assent (June 1, 2015)	
Recommendation #68: The Office of the Information and Privacy Commissioner annual report contains a time analysis regarding their review and complaints.	Not Commenced	All future annual reports to be completed in accordance with this recommendation.
<p>Recommendation #69: Committee recommends in relation to:</p> <ul style="list-style-type: none"> • Processing requests – public body respond to a request within 20 business day or longer if the Commissioner approves; • Making a complaint to the Commissioner – must be made within 15 business days of when public body notified applicant or third party of decision; the Commissioner must notify relevant parties or review within 10 business days; the Commissioner must complete informal review within 30 business days; the Commissioner must complete formal investigation with 65 business days of when request for review/complaint was received; Public body must decide whether to follow recommendations or go to Trial division within 10 business days of receiving recommendations; and • Appeals to the Trial Division – Such matters shall proceed through expedited trial. 	Complete upon Royal Assent (June 1, 2015)	
Recommendation #70: Specifies sequence of actions and timelines relating to ATIPP requests, reviews by the Commissioner and appeals to the Trial Division.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #71: MIGA, in consultation with OPE and the Office of the Information and Privacy Commissioner, to develop a standard for public disclosure.	In Progress	The Municipal Working Group has developed a draft standard for

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<p>Recommendation #72: The standard referenced in recommendation 71 should be enacted in the <i>Municipalities Act, 1999</i>, and ATIPPA be amended to add that provision to the legislative provisions that prevail over ATIPPA.</p>	In Progress	Government's consideration. As this standard requires changes to the <i>Municipalities Act, 1999</i> and potentially other Acts, careful policy work is required prior to bringing these Bills before the House of Assembly.
<p>Recommendation #73: Definition of public body be expanded to include municipally owned and directed corporations.</p>	<p>Complete upon Royal Assent (June 1, 2015)</p> <p>Coming into effect on August 1, 2015.</p>	ATIPPA, 2015 expands the definition of public body to include certain entities in the municipal sector created by or for municipalities. Unlike the remainder of the Act, this provision comes into effect on August 1 to provide municipalities with a chance to identify such entities and, with OPE advice, prepare them for their obligations under the Act.
<p>Recommendation #74: OPE formalize and provide support to assist municipalities in conforming with ATIPPA including a:</p> <ul style="list-style-type: none"> • Help desk at the ATIPP Office; • Refresher courses offered through webinars or regional meetings; • ATIPPA guidance web pages on municipal council websites. 	Substantially Complete	<p>The help desk has been established and training provided to municipalities. The help desk and training will be ongoing.</p> <p>ATIPPA guidance web pages on municipal council websites are being developed.</p>
<p>Recommendation #75: Municipal access to information and protection of</p>	In Progress	Draft complete and is being

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privacy policies be developed in line with the suggestion in the Municipal Handbook 2014 and be published on municipal council websites.		reviewed by the Municipalities Working Group.
Recommendation #76: Urgent that thorough and adapted training be provided to municipal ATIPP coordinator throughout the province and OPE consult with MIGA and the Office of the Information and Privacy Commissioner when updating training and resources.	In Progress	Introductory training has been provided to municipal ATIPP Coordinators in April and May. The Municipal Working Group has developed training materials and has been considering how best to deliver them in light of the draft municipal standard (see commentary related to Recommendations 72 and 73)
Recommendation #77: Final version of the Office of Public Engagement's ATIPP Municipalities Guide be completed as soon as possible in consultation with Municipal and Intergovernmental Affairs and the Office of the Information and Privacy Commissioner.	In Progress	This is subject to completion and approval of the draft public disclosure standard.
Recommendation #78: Removal of the requirement to publish in a newspaper an individual's right to request their information not be used for fundraising by post-secondary educational bodies	Complete upon Royal Assent (June 1, 2015)	
Recommendation #79: The Government take the necessary steps to impose a duty to document, and that the proper legislation to express that duty would be the <i>Management of Information Act</i> , not the ATIPPA	In Progress	A legislated Duty to Document would be a first for a Canadian government. Careful policy work and consultation is required before legislation is amended. This work is underway.

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Recommendation #80: Implementation and operation of this new section of the <i>Management of Information Act</i> be subject to such monitoring or audit and report to the House of Assembly by the Information and Privacy Commissioner as the Commissioner considers appropriate.	Not Commenced	Action on this recommendation will follow implementation of Recommendation 79.
Recommendation #81: Adequate resources be provided to public bodies served by the Office of the Chief Information Officer, so that there is consistency in the performance of information management systems.	In Progress	An approach to this recommendation has been agreed upon. This will become part of the ongoing work plan of the OCIO IM Services Division through the Information Management Self-Assessment tool and outreach and advisory services to public bodies.
Recommendation #82: The ATIPPA be amended to modernize the definition of record, disclosure be no different than in paper form, datasets be made available in re-usable format and the applicant consulted on format	Complete upon Royal Assent (June 1, 2015)	
Recommendation #83: As a matter of good practice public bodies should work with applicants to help them better understand how to work with these datasets	In Progress	This will be pursued through the Open Government Action Plan
Recommendation #84: Revise section 69 of ATIPPA to give the Commissioner a leading role in overseeing the publication of information held by public bodies - responsible for creating a standard template for the publication of information and give each public body the obligation of adapting the template to its functions and publishing its own information and to monitor said publication	Complete upon Royal Assent (June 1, 2015)	The Committee suggested a phased implementation for this recommendation. The development of the template is anticipated to begin following the coming into force of <i>ATIPPA, 2015</i> .
Recommendation #85: A new regulation making power be added to the Act to enable Cabinet to prescribe which public bodies are required to	Complete upon Royal Assent	

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comply with section 69	(June 1, 2015)	
Recommendation #86: Change to workplace investigation stating that "all relevant information created or gathered for the purpose of a workplace investigation" be withheld rather than "information that would reveal the substance of records collected or made during a workplace investigation."	Complete upon Royal Assent (June 1, 2015)	
Recommendation #87: Where the head of a public body is in possession of records of a statutory office, section 30.1 of the Act should apply and recommends that section 30.1 be so amended.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #88: Amend section 72 of the Act to include an offence provision that reflects the Commissioner's recommendation.	Complete upon Royal Assent (June 1, 2015)	
Recommendation #89: The next five-year statutory review of the Act be expressly mandated to assess the time limits for provisions that have specific protection periods.	Not Commenced	This recommendation relates to the next statutory review.
Recommendation #90: The Committee's draft bill be presented to the House of Assembly for consideration and that: <ul style="list-style-type: none"> • The Commissioner be consulted on the draft bill; • A phased approach to implementing the provisions; and • Where the House of Assembly enacts any of the Committee's recommendations, the Minister of OPE report to the House of Assembly within one year of such enactment, on the progress of its implementations. 	Substantially Complete	Completed with the exception of the report to the House of Assembly within one year of enacting <i>ATIPPA, 2015</i> .