



# A Citizen's Guide

to Information Access and Privacy  
Rights in Nova Scotia

Office of the Information and Privacy Commissioner for Nova Scotia



How can I participate if I don't know what's going on?

What information of mine do 'they' have anyway?

How did my government make that decision?

How did information about my illness get out in my community if I didn't tell anyone?





## TABLE OF CONTENTS

### The Information and Privacy Commissioner for Nova Scotia

Introduction.....4

Access to information and privacy laws in Nova Scotia.....5

### Access to Information under FOIPOP and MGA

Introduction.....6

Making a formal access to information request.....7

Access to information: Frequently Asked Questions.....8

Appealing a public body decision.....10

### Privacy under FOIPOP and MGA

Introduction and how to file a privacy complaint.....12

Privacy rules that public bodies must follow.....13

Privacy: Frequently Asked Questions.....14

### Personal Health Information under PHIA

Introduction and how to file a privacy complaint.....16

Privacy rules that health custodians must follow.....17

Personal health information: Frequently Asked Questions.....18

Contact Information.....20

# Introduction to Nova Scotia's Information and Privacy Commissioner

Reproduced with permission from the Office of the Privacy Commissioner for Canada

Nova Scotia's **Information and Privacy Commissioner** is appointed by the Governor in Council for 5-7 years at a time. The Office of the Information and Privacy Commissioner's (OIPC) job is to:

- ✓ Provide **independent** and **impartial** oversight of access to information and privacy under Nova Scotia laws
- ✓ Educate the public about information access and privacy issues



## The independent and impartial OIPC for NS:

- ✓ Is not influenced by government in making assessments of how information and privacy law applies to specific cases
- ✓ Does not take sides in disputes about access to information and privacy
- ✓ Applies the law and works with citizens and government to promote and achieve the goals of information access and privacy laws in Nova Scotia
- ✓ Is not connected to any political party and cannot be removed on a whim

### The OIPC for Nova Scotia's work includes:

- ✓ Investigating appeals of decisions by public bodies and health information custodians
- ✓ Investigating privacy complaints and privacy breaches
- ✓ Releasing public reports
- ✓ Providing consultation services to public bodies and health information custodians
- ✓ Providing education sessions to a range of audiences
- ✓ Providing best practices tools for public bodies and health custodians
- ✓ Responding to inquiries from the public

For more information on OIPC activities and outcomes, check out our Annual Reports:

[www.foipop.ns.ca/annual-reports](http://www.foipop.ns.ca/annual-reports)

## Access to information and privacy laws in Nova Scotia

There are 7 access to information and privacy laws providing Nova Scotians:

- ✓ rights to access information
- ✓ rights to correct personal information
- ✓ privacy protections for personal information
- ✓ complaint processes for resolving concerns

The Law:	Citizen Rights:	Applies to:
<p><b><i>Freedom of Information and Protection of Privacy Act (FOIPOP)</i></b></p> <p>Nova Scotian law</p>	<ul style="list-style-type: none"> <li>• Protection of privacy</li> <li>• Access to public body information</li> <li>• Access to own personal information</li> <li>• Correction of own personal information</li> </ul>	<p>All provincial government departments, agencies, boards, commissions, universities, community college.</p> <p><b>Oversight by: OIPC for NS</b></p>
<p><b><i>Municipal Government Act (MGA)</i></b></p> <p>Nova Scotian law</p>	<ul style="list-style-type: none"> <li>• Protection of privacy</li> <li>• Access to municipal government information</li> <li>• Access to own personal information</li> <li>• Correction of own personal information</li> </ul>	<p>All municipal governments in the province and their departments or utilities.</p> <p><b>Oversight by: OIPC for NS</b></p>
<p><b><i>Personal Health Information Act (PHIA)</i></b></p> <p>Nova Scotian law</p>	<ul style="list-style-type: none"> <li>• Protection of privacy</li> <li>• Access to own personal health information</li> <li>• Correction of own personal health information</li> </ul>	<p>All health information custodians: regulated health care providers, researchers, others using personal health information.</p> <p><b>Oversight by: OIPC for NS</b></p>
<p><b><i>Personal Information International Disclosure Protection Act (PIIDPA)</i></b></p> <p>Nova Scotian law</p>	<ul style="list-style-type: none"> <li>• Protection of privacy against foreign demands and requirement to store personal information in Canada</li> </ul>	<p>All provincial government departments, agencies, boards, commissions, universities, community college.</p>
<p><b><i>Access to Information Act</i></b></p> <p>Canadian law</p>	<ul style="list-style-type: none"> <li>• Access to information held by federal government institutions</li> </ul>	<p>All federal government departments, agencies, boards, commissions.</p> <p><b>Oversight by: Information Commissioner of Canada</b></p>
<p><b><i>Privacy Act</i></b></p> <p>Canadian law</p>	<ul style="list-style-type: none"> <li>• Protection of privacy</li> <li>• Access to own personal information</li> <li>• Correction of own personal information</li> </ul>	<p>All federal government departments, agencies, boards, commissions.</p> <p><b>Oversight by: Privacy Commissioner of Canada</b></p>
<p><b><i>Personal Information Protection and Electronic Documents Act (PIPEDA)</i></b></p> <p>Canadian law</p>	<ul style="list-style-type: none"> <li>• Protection of privacy</li> <li>• Access to own personal information</li> </ul>	<p>Private companies doing commercial activity in Canada, like banks or insurance companies.</p> <p><b>Oversight by: Privacy Commissioner of Canada</b></p>

## Introduction to 'access to information' under FOIPOP and MGA

Under the FOIPOP and MGA, you can request access to any **record** in the custody or control of any **public body** in Nova Scotia. Public bodies include government departments, municipalities, municipal police forces, universities, community college, and school boards.

### Records include:

- ✓ Your own personal information
- ✓ Emails, drawings, charts, photos, documents
- ✓ Database reports
- ✓ Videos
- ✓ Financial records
- ✓ Anything on which information is recorded

### Fees:

You may have to pay fees to obtain information. There are two types of fees: application fees and processing fees. You do not have to pay any fee if you request only your own personal information.

If you request general information (for example about government contracts or policies) you must pay:

- ✓ \$5 application fee
- ✓ Processing fees (the first 2 hours for locating and retrieving records are free)

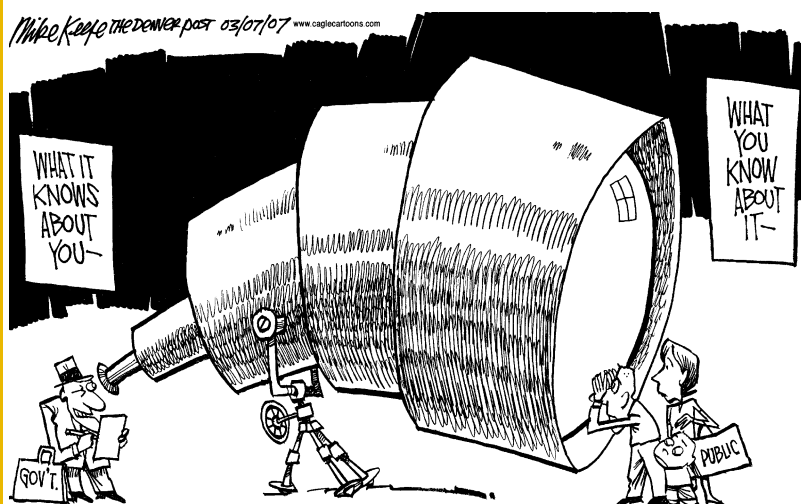
**Processing fees:** There are rules about processing fees. Public bodies can charge \$30 per hour for searching for records, processing records and can charge copying and shipping costs. The public body must give you a fee estimate first. You can then decide if you will pay the fee, change your request to reduce the fee, request a fee waiver, or appeal to the Information and Privacy Commissioner.

**Fee waivers:** You can ask the public body to waive or forgive processing fees if you cannot afford to pay the fee, or for other fairness and public interest reasons. If the public body refuses to waive the fee, you can appeal to the Information and Privacy Commissioner.

Public bodies must respond to access to information requests within 30 days unless a time extension is permitted.

## Making a formal access to information request under FOIPOP and MGA

Steps	What to do	Hints
1. Decide	<p>Ask yourself:</p> <ul style="list-style-type: none"> <li>• What records do I want to see?</li> <li>• Who holds the records I want to see?</li> <li>• What information am I looking for?</li> <li>• Who is the right contact for this request?</li> </ul>	<p>Call the public body first and ask questions about the kinds of records they keep, how they are stored and filed.</p> <p>Check for previously released information on the provincial government disclosure log: <a href="https://foipop.novascotia.ca">https://foipop.novascotia.ca</a></p>
2. Ask	<p>Make your request in writing:</p> <ul style="list-style-type: none"> <li>• Clearly state what you are looking for including the time period</li> <li>• Pay the \$5 application fee, except if you are requesting your own personal information</li> </ul>	<p>Form 1 is available to make it easier <a href="http://www.foipop.ns.ca">www.foipop.ns.ca</a></p> <p>The provincial government also has an online form you can use: <a href="https://foipop.novascotia.ca">https://foipop.novascotia.ca</a></p> <p>Describe the information you are looking for and ask for “all related records” to capture things you are not aware of.</p> <p>Keep a copy of your request.</p>
3. Receive	<p>A public body must respond in writing, within 30 days.</p> <p>Responses could include:</p> <ul style="list-style-type: none"> <li>✓ informing of a time extension</li> <li>✓ providing a fee estimate</li> <li>✓ providing the records requested in whole or with some information withheld</li> </ul>	<p>You can make as many different requests as you want.</p> <p>You can contact the public body and ask questions if you don’t understand their response, or appeal to the Information and Privacy Commissioner.</p>



An **applicant** is the person requesting information from a public body.

**Personal information** is information that identifies an individual person including, name, address, personal characteristics, educational, financial, or employment history.

A **third party** is a person or organization who is referred to in a record or who may have an interest in records being considered for disclosure.

## Access to information: Frequently Asked Questions

### ***Do I always need to go through a formal process?***

No. You should contact the public body first to see if a formal process is needed. Some types of administrative or operational records are routinely released automatically or may already be available as public information. The provincial government has a log of information already released to other applicants that you can access online: <https://foipop.novascotia.ca>. The public body can help you understand what kinds of records exist and what you need to do to get access.

### ***Can't I just ask the Information and Privacy Commissioner for the records I want?***

No. You cannot get public body records directly from the Information and Privacy Commissioner's Office. The Commissioner's office does not have direct access to records held by public bodies. Even if a public body's decision is appealed to the Information and Privacy Commissioner with a recommendation that records should be released, the records will always be given out by the public body.

### ***Will the public body really respond in 30 days?***

Yes. Many requests are filled by a public body within the first 30 days. Even if a public body takes a time extension, you must be informed of the reason for the extension in writing, before the first 30-day deadline.

### ***What is a time extension and what are the reasons for one?***

A public body can take a 30 day extension (for a total of 60 days from the original request) and can apply to the Information and Privacy Commissioner for approval of more time.

Time extensions are permitted for these reasons:

- there was not enough detail in the original request; OR
- the record(s) are very large or complex and meeting the deadline will interfere with the public body's operation; OR
- a third party or another public body must be consulted before making a decision

### ***What if the public body didn't respond in the first 30 days?***

If you did not hear from the public body at all within 30 days of your request, not even letting you know about a time extension, you should first check with the public body. If you are not satisfied, you can appeal to the Information and Privacy Commissioner.

The purpose of Nova Scotia's FOIPOP law is to make public bodies fully accountable to the public.



### ***I got a “fee estimate” back from the public body. What now?***

You can pay the fee or you can request that the public body excuse you from paying the fee if you cannot afford the payment, if it would be fair to excuse the payment, or if the record relates to a matter of “public interest” including the environment or public health or safety. If you disagree with the decision, you can appeal to the Information and Privacy Commissioner. You can also change your request so that fewer records are captured which should lower the cost.

### ***What if I don’t believe they gave me everything I asked for?***

First, ask yourself what you think is missing and why do you think it should have been included. Then, you should ask the public body more questions about what records you think are missing. If you believe that the public body has records that did not come out in their search, you can appeal to the Information and Privacy Commissioner.

### ***What if I believe I should get information that is blanked out?***

If you received records but some of the information is blanked out (withheld), the public body must include the reasons for this in its decision to you. The reasons must include the section numbers from the legislation that are legitimate exceptions to access. If you are not satisfied with the decision, you can appeal to the Information and Privacy Commissioner.

### ***When can a public body blank out (withhold) information?***

The law requires a public body to withhold:

- ✓ Personal information of third parties if disclosure would be an unreasonable invasion of privacy
- ✓ Confidential business information, if the business can show that significant harm would result from disclosure

Under certain circumstances, a public body may withhold other information, including:

- ✓ Executive Council (Cabinet) discussions
- ✓ Advice given to a public body or minister
- ✓ Law enforcement matters
- ✓ Solicitor-client privileged information
- ✓ Information that will risk health or safety
- ✓ Information from closed meetings of a public body

The purpose of Nova Scotia’s *FOIPOP* law is to help the public be informed and participate in the democratic process.

## Appealing a public body decision

You can appeal to the Office of the Information and Privacy Commissioner (OIPC) any decision, act, or failure to act by a public body in relation to access to information and privacy. There is no fee for appealing to the OIPC.

Who	What to do	Hints
Applicant	<p>Contact the OIPC within 60 days of receiving a public body's decision.</p> <p><b>Ask:</b> Did the public body complete an adequate search and produce all the records I requested?</p> <p>Did the public body make the right decision about giving out the information in the records?</p> <p>Did the public body fail to respond within 30 days?</p>	<ul style="list-style-type: none"> <li>✓ Ask the OIPC in writing</li> <li>✓ Form 7 is available to make it easier <a href="http://www.foipop.ns.ca">www.foipop.ns.ca</a></li> <li>✓ Attach your original request and the public body's decision</li> </ul>
Third Party	<p>Contact the OIPC within 20 days of receiving notice of disclosure from the public body.</p> <p><b>Ask:</b> Did the public body make the right decision about disclosing my information in a record going to an applicant?</p>	<ul style="list-style-type: none"> <li>✓ Ask the OIPC in writing</li> <li>✓ Form 8 is available to make it easier <a href="http://www.foipop.ns.ca">www.foipop.ns.ca</a></li> <li>✓ Attach the public body's notice and decision</li> </ul>

### ***Do I need a lawyer to request access to information, appeal to the OIPC, or make a privacy complaint?***

No. You do not need a lawyer but you can use one if you like. You will have the same rights and follow the same process if you act on your own as you do if you use a lawyer.

### ***Is there another option to appeal the public body decision?***

An applicant can appeal to the Nova Scotia Supreme Court:

- ✓ Within 30 days of notification of the public body's decision (instead of appeal to the OIPC), if there are no third-parties involved
- ✓ Within 30 days of notification of the public body's decision after the OIPC issues a report
- ✓ Within 30 days of the public body's act or failure to act
- ✓ An appeal to the Nova Scotia Supreme Court must follow all *Civil Procedure Rules*

There are fees to file an appeal with the Supreme Court and many people choose to be represented in court by a lawyer. Legal fees vary by the lawyer and complexity of the case. For information on court processes and fees, contact the Nova Scotia Supreme Court: [www.courts.ns.ca](http://www.courts.ns.ca).

## ***What will happen if I appeal to the Office of the Information and Privacy Commissioner (OIPC)?***

An appeal to the OIPC means that you ask for a decision, act, or failure to act to be investigated. If necessary, the OIPC may issue a public report with recommendations to the public body.

There are three main stages of an appeal to the OIPC:

<b>Intake</b>	The OIPC staff will: <ul style="list-style-type: none"><li>✓ Open a file with a tracking number</li><li>✓ Send you a letter acknowledging your appeal</li><li>✓ Contact the public body for details and the records in question</li></ul>
<b>Informal Resolution</b>	The OIPC staff will: <ul style="list-style-type: none"><li>✓ Investigate the circumstances</li><li>✓ Work with all parties to explore resolution possibilities</li><li>✓ Clarify the law and how it applies to the situation</li><li>✓ Bring together all the facts and considerations</li><li>✓ Research similar situations in Nova Scotia and other jurisdictions</li><li>✓ Prepare an opinion letter setting out the law for the parties to consider</li></ul>
<b>Formal Review</b>	If informal resolution is not successful, the Commissioner will: <ul style="list-style-type: none"><li>✓ Bring a fresh set of eyes to the situation</li><li>✓ Ask all parties to make submissions in writing</li><li>✓ Review the entire file</li><li>✓ Decide whether the public body was correct, partially correct, or incorrect</li><li>✓ Make recommendations to the public body on what to do, normally in a public report</li></ul>

## ***What is an OIPC public report and what difference will it make?***

An OIPC public report is a public document that describes the facts, what the Information and Privacy Commissioner thinks about how the law applies to the facts, and sets out **non-binding recommendations**. You can read previous public reports at [www.foipop.ns.ca](http://www.foipop.ns.ca).

Sometimes public bodies accept and implement all or part of the Commissioner's recommendations. If you are not satisfied with the response to the Commissioner's recommendations, you can appeal to the Nova Scotia Supreme Court. You cannot appeal the Commissioner's recommendations to the Nova Scotia Supreme Court.

The purpose of Nova Scotia's *FOIPOP* law is to ensure fairness in public bodies' decision making.

## Introduction to privacy rights under FOIPOP and MGA

Reproduced with permission from the Office of the Privacy Commissioner for Canada

We trust government departments and municipalities with important personal information. Governments need the information to deliver services to citizens.

Our privacy laws require that public bodies properly protect this sensitive information by setting out rules about when public bodies can collect, use, or disclose personal information.

A public body must respect the law when dealing with the personal information of citizens, including taking reasonable steps to keep personal information secure.



"THERE'S A LOT OF SENSITIVE PERSONAL INFORMATION ON THIS FLASH DRIVE SO HANDLE IT WITH CARE!"

### As a citizen, my rights are:

- ✓ To request a copy of my own personal information held by a public body (there is no fee for making this type of request)
- ✓ To request that a public body correct my personal information if I believe there is an error
- ✓ To complain if I believe that the public body has violated the privacy rules

### How do I file a privacy complaint?

1. Contact the public body directly. Put your complaint in writing.
2. Assess the public body's response.
3. If you disagree with the public body's response or if they do not respond within 60 days, you can file a complaint with the OIPC.
  - ✓ Put your complaint to the OIPC in writing and include a copy of your complaint to the public body and the public body's response (if there is one)
  - ✓ There is no fee for filing a complaint with the OIPC

Note: At this time, the law does not provide for citizens to bring privacy complaints about municipalities to the OIPC for resolution.

**“Snooping” is when a person accesses another individual’s personal information from government records without having a valid job-related reason.  
This is a privacy breach!**



## Privacy rules that public bodies must follow:

<b>Collection</b>	<p>A public body may only collect personal information if:</p> <ul style="list-style-type: none"> <li>✓ It is expressly authorized by a law</li> <li>✓ It is collected for the purpose of law enforcement</li> <li>✓ It is necessary for operating a program or activity of the public body</li> </ul>
<b>Use</b>	<p>A public body may only use personal information for:</p> <ul style="list-style-type: none"> <li>✓ The purpose it was collected</li> <li>✓ A purpose compatible with the original purpose</li> <li>✓ A specific purpose listed in the law</li> </ul>
<b>Access</b>	<p>A public body must ensure that your personal information can only be accessed for valid work-related reasons.</p>
<b>Disclosure</b>	<p>A public body may disclose personal information for a number of reasons, including:</p> <ul style="list-style-type: none"> <li>✓ If the individual consents</li> <li>✓ If the law allows or requires it</li> <li>✓ To protect health or safety</li> <li>✓ To collect a debt owing to the province</li> <li>✓ For audit purposes</li> <li>✓ So an MLA can help an individual resolve a problem</li> <li>✓ For law enforcement</li> <li>✓ So that next of kin of an injured, ill or deceased person can be contacted</li> <li>✓ For a research purpose, under strict conditions</li> <li>✓ To the Public Archives, under strict conditions</li> <li>✓ To the public, if it is in the public interest, under strict conditions</li> </ul>
<b>Security and Retention</b>	<p>A public body must take reasonable steps to keep personal information secure, including planning for how long it will hold personal information and how it will dispose of it after it is no longer needed.</p> <p>If the public body uses personal information for making a decision that directly affects an individual, it must keep the personal information for at least one year after using it.</p>



## Privacy: Frequently Asked Questions

### *How do I correct an error?*

1. Contact the public body directly in writing. There is no fee to request a correction.
  - ✓ Form 2 is available to make it easier ([www.foipop.ns.ca](http://www.foipop.ns.ca))
  - ✓ Be specific about what record and what information you want to correct
  - ✓ Provide documentation or evidence of the correct information
  
2. Review the public body's response.
  - ✓ The public body may correct the information you requested
  - ✓ The public body may note your request in the record
  
3. If you disagree with the public body's response or if they do not respond, you can appeal to the OIPC.

### *Can I request another person's personal information?*

You can request access to records that contain another person's personal information, but the law has strong privacy protections to stop disclosure if it would be an **unreasonable invasion of privacy**.

**A public body must assess all the circumstances to determine what would be an unreasonable invasion of privacy.**

Disclosure presumed to be an unreasonable invasion of privacy includes:	Disclosure presumed NOT to be an unreasonable invasion of privacy includes:
<ul style="list-style-type: none"> <li>✓ Personal medical, dental records</li> <li>✓ Information compiled as part of a police investigation</li> <li>✓ Information relating to eligibility for benefits</li> <li>✓ Information relating to employment or educational history</li> <li>✓ Information compiled for tax purposes</li> <li>✓ Information about personal finances, income, assets, debts</li> <li>✓ References and personnel evaluations</li> </ul>	<ul style="list-style-type: none"> <li>✓ The person consents</li> <li>✓ There are compelling reasons affecting someone's health or safety</li> <li>✓ Information about a person's position, function, salary as an employee or member of a public body</li> <li>✓ Information about expenses incurred while working for a public body</li> <li>✓ Information about a license or permit granted by a public body</li> <li>✓ If a law allows or requires it</li> </ul>
<p><b>Other factors a public body must consider:</b></p> <ul style="list-style-type: none"> <li>✓ Disclosure is desirable for holding the public body accountable</li> <li>✓ Disclosure is likely to promote public health or safety</li> <li>✓ Disclosure will unfairly expose a third party to financial or other harm</li> <li>✓ The personal information was supplied in confidence</li> <li>✓ Disclosure may unfairly damage the reputation of any person referred to</li> <li>✓ The passing of time</li> </ul>	

### ***Is there any compensation for a violation of my privacy rights?***

You may receive an apology from a public body and help to limit the damage from the breach, but the OIPC cannot get you money or issue penalties to a public body. You may also receive an explanation for how the public body intends to prevent a similar breach happening in the future. There are examples of people who have sued a public body in civil court and received money to compensate for a privacy breach. For more information about civil lawsuits, contact a lawyer.

### ***How is a privacy complaint to the OIPC resolved?***

If you bring a privacy complaint to the OIPC for NS, the process is like what is described on page 11, however a formal report is normally issued privately. Recommendations to a public body may include changes to the way it collects, uses, discloses, or secures personal information. If your complaint raises issues affecting the privacy rights of a significant number of people, the OIPC may issue a public report describing the public body's responsibilities and its recommendations. The OIPC will investigate the circumstances and if the findings do not support your complaint, the OIPC will let you know.

### ***When can someone legitimately collect my Social Insurance Number (SIN)?***

Your SIN is an important unique identification number provided by the Government of Canada for financial purposes. It is used for recording employment income, income tax, for borrowing money and making investments. Under Canadian federal law, you are required to give your SIN to a person or organization only for specific reasons, all related to financial matters. You should protect your SIN and not give it out for purposes other than valid reasons because it can be used to commit identity theft. If you want more information about how to use and protect your SIN, you can contact the Privacy Commissioner of Canada ([www.priv.gc.ca](http://www.priv.gc.ca)).

### ***What do I do if my privacy was breached and my information is 'out there'?***

Here are some steps you can take to minimize harm from a privacy breach:

- ✓ Attempt to retrieve any copies or get assurance from the person(s) who received your information that it was deleted or destroyed
- ✓ Replace your personal identification if it was breached (driver's license, Social Insurance Number, health card number, passport) as soon as possible
- ✓ Let essential organizations like: the public body who issues the identification, your bank, or your doctor, know that your privacy was breached so they can watch for possible fraud
- ✓ If it is possible for your financial situation or credit to be affected by the breach, get credit protection and notification services

Privacy is fundamental to individual security, self-expression, and dignity. The purpose of privacy laws is to put rules in place to protect citizens.

## Introduction to personal health information

**Personal health information** is any identifying information that relates to:

- ✓ physical or mental health, including health history
- ✓ assessment, eligibility, and provision of health care
- ✓ health care payments
- ✓ the donation of any body part or tissue
- ✓ health care registration information
- ✓ information about a substitute decision-maker

A **personal health information record** is a record in any form (paper, electronic, photo, x-ray, etc.) created to document and hold personal health information.

A regulated health care provider, a hospital, a clinic, and some organizations designated under the law (such as a home care or home oxygen agency) who collect and use personal health information are called **custodians** of health information.

A custodian is responsible for the care and control of the personal health information collected and must take all reasonable steps to protect the information.

### As a health care patient, my rights are:

- ✓ To request a copy of my own personal health information held by a custodian (there is no application fee for this type of request, but there may be other fees, see page 18)
- ✓ To request that a custodian correct my personal health information if I believe there is an error
- ✓ To complain if I believe that the custodian has violated the privacy rules

### How do I file a privacy complaint?

1. Contact the custodian directly. Put your complaint in writing.
2. Review the custodian's response.
3. If you disagree with the custodian's response or if they do not respond within 60 days, you can file a complaint with the OIPC.
  - ✓ Put your complaint to the OIPC in writing and include a copy of the custodian's response (if there is one)
  - ✓ There is no fee for filing a complaint with the OIPC



Reproduced with permission from the Office of the Privacy Commissioner for Canada



## Privacy rules that health custodians must follow:

<b>Collection</b>	<p>Your personal health information may <b>only</b> be collected from <b>you</b>, unless:</p> <ul style="list-style-type: none"> <li>✓ You consent to collection from someone else</li> <li>✓ Collected from a substitute-decision maker who is authorized to act</li> <li>✓ It is reasonably necessary for providing health care and it is not possible to collect it from you</li> <li>✓ There is a safety issue</li> <li>✓ The information is used to create another person’s family history</li> <li>✓ It is to determine eligibility for a program or benefit</li> <li>✓ It is related to the planning and management of the health care system</li> </ul>
<b>Use</b>	<p>A custodian may only use personal health information for:</p> <ul style="list-style-type: none"> <li>✓ The purpose that it was collected</li> <li>✓ Another purpose if it is permitted or required under another law</li> <li>✓ Educating staff to provide health care</li> </ul>
<b>Access</b>	<p>A custodian must ensure that your personal information can only be accessed for valid work-related reasons.</p>
<b>Disclosure</b>	<p>A custodian may disclose personal health information, including:</p> <p><b>With your consent (implied by you accepting their services):</b></p> <ul style="list-style-type: none"> <li>✓ To provide your health care and work with other health professionals in providing your health care, on a “need to know basis”</li> </ul> <p><b>With your express consent (usually informed consent in writing):</b></p> <ul style="list-style-type: none"> <li>✓ To another person or organization, for another purpose</li> <li>✓ For fundraising, market research, or marketing</li> <li>✓ To the media</li> </ul> <p><b>Without your consent:</b></p> <ul style="list-style-type: none"> <li>✓ As required or authorized by a law (examples include prescription monitoring, child protection, maintenance enforcement)</li> <li>✓ To a person who is legally acting on your behalf (a legal guardian, an administrator of an estate, a person entitled to make decisions)</li> <li>✓ To prevent or assist in the investigation of fraud</li> <li>✓ If it will avoid or minimize an imminent and significant danger to any person’s health or safety</li> <li>✓ To a correctional facility if the disclosure will help the facility provide health care or make decisions about services to you</li> <li>✓ To ensure quality standards and the planning and management of the health care system</li> <li>✓ To researchers under strict conditions</li> </ul>

Staff working in a health care setting are the **agents** of the custodian. They are not permitted to view, share, copy, or modify personal health information, except if they have a valid work-related purpose.

## Personal health information: Frequently Asked Questions

### *How do I correct an error?*

1. Contact the custodian in writing. There is no fee to request a correction.
  - ✓ First, get a copy of the records in question
  - ✓ Make your request in writing
  - ✓ Be specific about what record and what information you want to correct
  - ✓ Provide documentation or evidence of the correct information
2. Review the custodian's response.
  - ✓ The custodian may correct the information you requested
  - ✓ The custodian may make a different decision and give you notice of it
3. If you disagree with the custodian's response or if they do not respond within 30 days, you can appeal with the OIPC.

### *I am changing doctors. Can I ask my old doctor to send my records to my new doctor?*

Yes. Ask your doctor in writing, but you may be charged a fee to cover the costs. There is no fee if your new doctor requests the records directly from your old doctor.

### *How do I get a copy of my personal health records?*

Ask the custodian holding your records in writing. You may ask to examine your records or you may ask for a copy of your records. Here are some types of records and the fees you may be charged.

Type of Record	Access Rights	Fees
Record of user activity	<ul style="list-style-type: none"> <li>• A report showing all the times your record was accessed on an electronic system, who accessed the records, and what type of information was accessed</li> <li>• Must be produced for you within 30 days of request</li> <li>• Request in writing and specify the period of time</li> </ul>	No fee
Visit History	<ul style="list-style-type: none"> <li>• Computerized printout of your individual visits to the health care provider</li> </ul>	Up to \$10
Personal Health Information Record	<ul style="list-style-type: none"> <li>• You may ask to examine your full health records or receive a copy</li> <li>• You may ask that a copy be prepared and sent to a new custodian</li> <li>• Custodian must respond within 30 days</li> <li>• Some access can be refused based on specific exceptions</li> </ul>	Custodians may charge fees. A general fee up to \$30 and other fees based on costs may apply.

For more information about fees, see *PHIA Fee Fact Sheet* at: [www.foipop.ns.ca/publictools](http://www.foipop.ns.ca/publictools)

***Can my doctor sell my health information to a fundraiser or a drug company without me knowing?***

No. A health custodian cannot disclose your personal health information for fundraising, market research, or marketing of any commercial product or service without your express consent, which is informed consent usually provided in writing.

***Can I access other information from my doctor's office, the clinic, or the hospital?***

Maybe. The Nova Scotia Health Authority, the Izaak Walton Killam (IWK) Health Centre, and the Department of Health and Wellness are also considered public bodies under the *FOIPOP* legislation, so the access to information laws apply to other types of records held by them. A doctor's office or other care provider operating a private practice are not covered by the *FOIPOP* legislation. You can always ask for other information, but there is no law that requires them to answer.

***How is a privacy complaint to the OIPC resolved?***

If you bring a privacy complaint to the OIPC for NS, the process is like what is described on page 11, however the report is normally issued privately. Recommendations to a custodian may include changes to the way it collects, uses, discloses, or secures personal health information. If your complaint raises issues affecting the privacy rights of a significant number of people, the OIPC may issue a public report describing the custodian's responsibilities and making recommendations. The OIPC will investigate the circumstances and if the findings do not support your complaint, the OIPC will let you know.

***Is there any compensation for a violation of my privacy rights?***

You may receive an apology from a custodian and help to limit the damage from the breach, but the OIPC cannot get you money or issue penalties to a custodian. You may also receive an explanation for how the custodian intends to prevent a similar breach happening in the future. There are examples of people who have sued a custodian in civil court and received money to compensate for the damage caused by a privacy breach. For more information about civil lawsuits, contact a lawyer.

***Why is personal health information treated differently from other personal information?***

Creating a separate law for personal health information ensures that all those involved in collecting and using personal health information are covered. It also ensures that the law is written to address some of the unique considerations that come about in the health care setting.

The purpose of Nova Scotia's *PHIA* law is to protect your privacy while allowing enough information to be shared for health care services to be provided and the system to be managed.



# Office of the Information & Privacy Commissioner

Nova Scotia

This document was produced by the Office of the Information and Privacy Commissioner for Nova Scotia. We can be reached at:

Office of the Information and Privacy Commissioner for Nova Scotia  
509-5670 Spring Garden Road  
P.O. Box 181  
Halifax, NS B3J 1H6

Phone: 902-424-4684  
Toll Free (NS): 1-866-243-1564  
TDD/TTY: 1-800-855-0511  
Fax: 902-424-8303

Website: [www.foipop.ns.ca](http://www.foipop.ns.ca)  
Email: [oipcns@novascotia.ca](mailto:oipcns@novascotia.ca)  
Twitter: [@NSInfoPrivacy](https://twitter.com/NSInfoPrivacy)

Other Useful Contact Information	
Information Commissioner of Canada	Tel: 1-800-267-0441 Web: <a href="http://www.oic-ci.gc.ca">www.oic-ci.gc.ca</a>
Privacy Commissioner of Canada	Tel: 1-800-282-1376 Web: <a href="http://www.priv.gc.ca">www.priv.gc.ca</a>
Nova Scotia government ~ privacy and information access administration	Tel: 1-844-424-2985 Web: <a href="http://www.novascotia.ca/is/programs-and-services/information-access-and-privacy.asp">www.novascotia.ca/is/programs-and-services/information-access-and-privacy.asp</a>
Online access request form	<a href="https://foipop.novascotia.ca">https://foipop.novascotia.ca</a>
Nova Scotia Health Authority ~ privacy and information access administration	Tel: 902-473-2978; 1-833-213-1634 Email: <a href="mailto:privacy@nshealth.ca">privacy@nshealth.ca</a>
RCMP privacy and access administration	Tel: 613-843-6800 Web: <a href="http://www.rcmp-grc.gc.ca/atip-aiprp/index-eng.htm">http://www.rcmp-grc.gc.ca/atip-aiprp/index-eng.htm</a>
Local Public Bodies Privacy and access administration	Contact your municipal office, municipal police, or school board for more information. For a list of contact info go to: <a href="http://www.foipop.ns.ca/PB_Contact">www.foipop.ns.ca/PB_Contact</a>