



Office of the Information
& Privacy Commissioner
Nova Scotia

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March 8, 2019

Law Amendments Committee
c/o Office of the Legislative Counsel
Legc.office@novascotia.ca

//via email//

Dear Law Amendments Committee:

Re: Bill 91 – Nova Scotia Museum Act

I write today to contribute to the public debate of Bill 91, as introduced by the Minister of Communities, Culture and Heritage which passed its second reading on March 5, 2019. Upon reviewing the bill, I have identified a potentially unintended consequence of the proposed changes to the governance structure which should be addressed before the law is finalized.

Under s. 4(1) of the existing legislation, 100% of the of the Board of Governors is appointed by the Governor in Council. Section 5(1) of Bill 91 proposes to change that process so that 5 of 13 members will be appointed by the Governor in Council. This change could have a significant impact on the treatment of the Board of Governors and the Nova Scotia Museum as a public body under Nova Scotia's *Freedom of Information and Protection of Privacy Act (FOIPOP)*.

Under *FOIPOP*, a public body is defined in s. 3(j). A public body may be designated pursuant to *FOIPOP*, but the Nova Scotia Museum has not been designated using this mechanism. A public body is also defined as an agency, board, commission, etc., "all the members of which ... are appointed by order of the Governor in Council." This is the section that currently clearly defines the Nova Scotia Museum's Board of Governors as a public body subject to *FOIPOP*.

The purpose of *FOIPOP* is to promote accountability and transparency, particularly in areas such as policy decisions, program delivery and expenditure of public funds. The Nova Scotia Museum serves an important public purpose in promoting the preservation of and public engagement with Nova Scotia's history and historical artifacts, including significant physical infrastructure. The Nova Scotia Museum is responsible for significant public expenditures and the bill preserves the status of museum employees as public servants. For these reasons, the Nova Scotia Museum continues to be a public institution rightly subject to *FOIPOP*.

The proposed change in governance structure removes the Nova Scotia Museum from its current definition of a public body and leaves nothing clearly in its place. In order to avoid uncertainty about the continued applicability of *FOIPOP* and the Nova Scotia Museum's status as a public body, I urge law makers to consider including a declaration that it is a public body for the purposes of *FOIPOP* within Bill

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91, or that the Governor in Council designate the Nova Scotia Museum as public body pursuant to s. 49(1)(f) of *FOIPOP*.

Yours truly,

A handwritten signature in black ink, appearing to be 'Catherine Tully', written in a cursive style.

Catherine Tully
Information and Privacy Commissioner for Nova Scotia

cc: The Honourable Leo Glavine, Minister, Department of Communities, Culture, and Heritage
Barbara Adams, MLA for Cole Harbour-Eastern Passage
Susan Leblanc, MLA for Dartmouth North