

**Notes for a Submission**

**By**

**Ian Johnson, Member  
Nova Scotia ACE (Advocates for Care of the Elderly) Team**

**To The**

**Public Bills Committee**

**On**

**Bill 1 –**

**An Act Respecting Government  
Organization and Administration**

**March 17, 2025**

Thank you, Madam Chairperson and members of the Public Bills Committee for this opportunity to speak to you about Bill 1. My name is Ian Johnson, now retired after almost 40 years working in the public sector, including 20 years as a researcher/policy analyst with NSGEU (Nova Scotia Government and General Employees Union).

I appreciate this chance to speak with you about the organizational and administrative changes of Bill 1 aiming to "enhance government operations, transparency and administrative efficiency".

After having been around and near the Legislature for 40 years, I have never seen a government bring in legislation like this Bill 1. It seems more oriented to directing people and organizations outside of the government, rather than making relevant changes inside the government. I was also here in 2014 when the then McNeil Liberal government introduced Bill 1 (the new Health Authorities Act) which was brought forward to diminish the power of unions and health care workers. In our view, this was being done to set the stage for wage restraint and diminished benefits. While dealing with different topics, the two Bills were introduced without any prior consultation with the affected groups.

I am also a member of the Nova Scotia ACE (Advocates for the Care of the Elderly) Team. The ACE Team has existed since 2007 and thanks to our Chair (Gary MacLeod), we have worked to make long-term care a truly fulfilling and sustainable option for many hard-working Nova Scotians. We want to re-organize long-term care to make it more like a home and as a viable place to live.

### FOIPOP

In my role with the ACE Team, I have been the member who has taken on the responsibility of trying to get answers to some basic questions about seniors and long-term care.

Last year, we saw the beginning of what was called the "modernization of FOIPOP" through the Department of Justice. I sent a written submission to the overall committee reviewing submissions at the end of November of 2024.

For me, a fundamental feature of our system of government is access to information. As outlined in Subsection 2(a) of the Nova Scotia Freedom of Information and Protection of Privacy Act, public bodies are fully accountable to the public by giving the public a right of access to records, and giving the public a right of access to, and a right to correction of, personal information about themselves.

In Appendix 1, I have attached my submission in which I tried to touch on several themes such as fees, time, misuse of exemptions, third parties, powers of the Commissioner, and Culture of Openness and Transparency. In Appendix 2, our Chairperson wrote to the Premier asking for the FOIPOP provisions not to go ahead,

In contrast, I have found 13 provisions of Bill 1 that are relevant to FOIPOP, none of which were mentioned in the background material for the so-called modernization project. These new provisions found in Clauses 16-21, 29-34 and Clause 67 seem directed to preventing access to "frivolous or vexacious requests for access to records". There is no indication of the source of where these new provisions come from, or how they will develop legislative options or recommendations for submission.

In her written submission to this Committee on February 25, 2025, the outgoing FOIPOP Commissioner makes the point that these provisions "pose risk to the access rights of Nova Scotians". She called for Bill 1 to be withdrawn until such time that there can be consultation with her office and stakeholders. I would also urge that the results of the submissions to the modernization project be fully released for everyone to see what was suggested.

Running through my review of Bill 1 is the question of why is the government so intent in stopping people from coming forward such as the Auditor General and ordinary citizens using FOIPOP. How is this going to enhance government operations, transparency, and administrative efficiency?

Who is going to determine if there are sufficient details when requests are submitted, or in identifying applications which are too frivolous or vexatious? What is the evidence for this supposed misuse of FOIPOP? If you look at the annual reports of the FOIPOP Commissioner, no such evidence is presented. Instead, the Commissioner has emphasized lack of adequate resourcing.

At the end of February 2025, the outgoing FOIPOP Commissioner asked the Premier to withdraw Bill 1 which would undermine the independence of her office. She called for meaningful consultation with her office and all stakeholders. This was supposed to happen with the so-called modernization of FOIPOP last year.

#### Access to Budget Lock-Up

Similarly, I am also concerned about the deliberate prevention of people coming forward to be part of the Provincial Budget Lock-Up process. Why would I and our Chair as well as many other reputable organizations be prevented from attending this event after participating for several years?

#### Conclusion

Overall, I would strongly suggest the government stop preventing transparency and instead focus on improving and strengthening public participation. Stop going after the auditor General, the users of FOIPOP, and the people and groups trying to be part of the Budget Lock-Up process.

In his Second Reading comments, the Premier called for action and not inaction on this Bill. But one type of action he and the government don't seem to recognize is to allow for more extensive and broad-based public consultation. In fact, this happened with this

Committee earlier to seek further public input as they did in the past on occupational health and safety and on environmental legislation.

It's time to open up Bill 1 and to invite public comments. Let's invite public submissions on what should be done. We don't need to move backward and make regressive changes with this Bill 1.

Appendix 1 – Letter to FOIPOP Modernization on November 30, 2024

5 Alderwood Drive  
Halifax, N.S.  
B3N 1S6

November 30, 2024

Dear [foipop.modernization@novascotia.ca](mailto:foipop.modernization@novascotia.ca)

I am writing in response to the public call for submissions to the review of the Information-Privacy Legislation which was publicly issued on September 28, 2023.

Introduction

I have been personally involved with FOIPOP since 1996 so I can appreciate all the changes which have been made since that time. I have certainly appreciated the time and assistance of the FOIPOP Administrators and the current IAP Administrators.

The last Review of the Nova Scotia FOIPOP legislation of which I am aware took place in 2003, and the last major set of amendments took place in 1999. I was part of one submission to that Review, but I was hoping for many further changes since then. However, this has not yet occurred.

For me, a fundamental feature of our system of government is access to information. As outlined in Subsection 2(a) of the Nova Scotia Freedom of Information and Protection of Privacy Act, public bodies are fully accountable to the public by giving the public a right of access to records, and giving the public a right of access to, and a right to correction of, personal information about themselves.

Ideally, this should occur without the need for this legislation or for the people who work with it. Unfortunately, this does not occur without a constant tension between what governments and the public think about what should or should not be accessible. This legislation has become an indispensable part of the machinery of government. Governments should be anticipating what the public wants to know on a regular basis. Access or freedom of information has become an important indicator of the machinery of government, and of how open, transparent and accountable a government is.

While important changes were made to the Act in 1999, we still have major concerns about how it operates to prevent the release of what we think should be accessible information to all in a timely fashion. This is not intended to criticize the work of the many FOIPOP and IAP Administrators in the various departments, agencies, and commissions, of the FOIOP Commission Office who have been of great assistance to us.

What I am referring to is the overall approach of the government in its responses to FOIPOP applications and the weaknesses we see in the Act itself. More specifically, I am referring to the fees, the time involved, the misuse of exemptions, third parties, the limited powers of the Freedom of Information and Protection of Privacy Commissioner, and the restraints on the culture of openness and accessibility.

## **Fees**

I agree that there should be no charge for applications dealing with personal information or for correction of personal information. Nor do I have any problems with a mandatory \$5 application fee for access to general records. I do have some problem for charges for staff time to locate and retrieve information, or the cost for staff to prepare the records, or for photographing, the mailing, or fax charges.

In such cases where fees are being charged, there should be a detailed fee estimate to explain what the fees are and what this might mean, or to explain how fees may be waived by the Commissioner if they are clearly found to be in the public interest.

### **Recommendation 1:**

We recommend that detailed fee estimates should only be used when needed, or the possibility of waiving in the public interest should be explained. As much as possible, fees should be avoided. Why should someone have to pay twice with any application?

## **Time**

I have experienced major time delays between when I submit an application and when we actually receive the information requested or part thereof. In some cases, I have experienced delays of several years. For one application, it was three years before I received the information. If the intent of the Act is to help make public bodies fully accountable, extensive delays do little to inspire confidence.

If there are to be extensive time delays in the processing of applications, this should be explained early in the process, and not waiting until later. The Commission Office should be making this situation very clear for each application and being very clear what the actual staffing situation will be.

### **Recommendation 2:**

We recommend that all time limits for the various steps in the FOIPOP process be reviewed and to shorten them as much as possible. Various shortages due to staff limitations should be clearly reported on a regular basis. They should not be allowed to persist.

## **Misuse of Exemptions**

Many of my applications have not been granted in full, and therefore, have required us to submit a review. In these cases, it has not been uncommon to see more than one exemption cited, and with no explanation as to why they are being used. In addition, the possibility of severing non-exempt information from a document is not observed either.

It should be necessary for the Commissioner to make these types of comments. With one recent application, the errant department disregarded our application even though it would be completely contrary to the purpose of my application.

### **Recommendation 3:**

We recommend the present wording of the exemptions be reviewed and more accurate interpretation guidelines for public bodies be provided about their proper use. The use of exemptions should be limited as much as possible. We also recommend that the principle of severability be much more widely used that seems to be the case at present.

### **Third Parties**

Another problem for us is the power of third parties to block access to documents. We do not think these parties should have this power. In other words, it should be clearly understood by them that if they are working with or for a public body, there is the possibility that any document prepared by them can be accessed under this Act.

### **Recommendation 4:**

We recommend that third parties should not have the power to agree or disagree with the disclosure of a document. Instead, public bodies should be informed of the possibility any document prepared by them may be obtained through an application under this Act.

### **Powers of the Commissioner**

We have greatly valued and appreciated the work of the Commissioner to help mediate and make sound recommendations on our review requests. We think her/his recommendations should be mandatory on the public body concerned and not optional. In other jurisdictions, this situation is already in place. It has been our experience that public bodies accept her/his recommendation in any case.

### **Recommendation 5:**

We recommend that the powers of the Commissioner be binding, and not optional for any public body who is a party for a FOIPOP Review.

### **Culture of Openness and Accountability**

We think much more needs to be done by the government to ensure that first and foremost, all public bodies do all they can to make their records and documents accessible to the public. Section 48 requires the publication of a directory to assist in identifying and locating the records of public bodies. If such a directory exists, it does not seem to be generally known.

**Recommendation 6:**

We recommend the government do much more to promote the right of the public to accessing records, or to be able to review personal information starting with the publication of what types of information are already available to the public, and in making better known how and who to contact for access to records.

We further recommend that all public bodies ask regularly about the types of information that the public would like to see.

Finally, we recommend that the Legislature establish a FOIPOP All-Party Committee to receive the reports and issues of the Commissioner's Office and to hear from the public regularly on FOIPOP Issues. It is vital to see how well we are doing to ensure that public bodies are fully accountable to the public.

**Conclusion**

We welcome this review. We have tried to outline several major problems which presently occur with the Nova Scotia Freedom of Information and Protection of Privacy (FOIPOP) Act. We have also tried to offer constructive recommendations for addressing them.

Many thanks to everyone who works with the FOIPOP system.



**Appendix 2 - Letter from ACE Team Chair to the Premier on FOIPOP Restrictions**  
**March 7, 2025**

Premier Tim Houston  
P.O. Box 726  
Halifax, NS  
B3J 2T3  
[premier@novascotia.ca](mailto:premier@novascotia.ca)

Dear Premier Houston,

We were pleased to see you drop recent provisions of Bill 1 related to the Auditor General. We feel these provisions were long overdue and should never have been considered.

As you did for the Auditor General, we support you in taking similar actions to prevent concerned Nova Scotians from receiving important details through freedom of information such as long-term care.

We agree with the FOIPOP Commissioner today that your government should withdraw Bill 1 which she says weakens the public's right to access government records and documents. In our view, these provisions run completely contrary to the very purposes of the FOIPOP Actions, to allow the public access to the records of the government.

For all these reasons, we urge your government not to allow such FOIPOP provisions to go ahead.

Yours sincerely,  
With respect

Gary MacLeod  
(Chair) Advocates for the Care of the Elderly Nova Scotia  
[theaceteam@ns.sympatico.ca](mailto:theaceteam@ns.sympatico.ca)