

## Mandate

The Office of the Information and Privacy Commissioner of Nunavut (NUIPC) is established under the *Access to Information and Protection of Privacy Act* (the ATIPPA). All functions, powers and duties of the NUIPC flow from the ATIPPA.

The purposes of the ATIPPA are to

- Give Nunavummiut a right of access to records held by the Government of Nunavut, with limited exceptions.
- Allow Nunavummiut to know what information the GN holds about them, and to correct it if it is wrong.
- Protect the privacy of Nunavummiut by preventing the unauthorized collection, use or disclosure of personal information.

The NUIPC is a legislative watchdog, independent of the Government of Nunavut and reporting directly to the Legislative Assembly.

## Functions

The primary function of the NUIPC is to ensure the GN is following the ATIPPA correctly. Usually that is done at the request of a citizen who is dissatisfied with the GN's response to a request for information, or who believes their privacy has been breached. If there is a complaint, the NUIPC looks at the law and the evidence, and then makes recommendations to the GN about how to improve their handling of information.

The specific functions of the NUIPC, as authorized by the ATIPPA, are:

- Review disclosure of records by the GN under the ATIPPA, including a refusal to disclose, a partial disclosure, or an extension of time to disclose
- Review the ATIPPA fees charged by the GN

- Review the GN's refusal of a request under the ATIPPA for correction of personal information
- Review a request by the GN to declare an ATIPPA request to have been abandoned
- Review a request by the GN to disregard an ATIPPA request
- Review, at the request of a third party, information about the third party the GN proposes to disclose under the ATIPPA
- Review a privacy breach complaint under the ATIPPA
- Review a privacy breach notification under the ATIPPA
- Provide comments, at the request of the GN, on a privacy impact assessment
- Provide comments to the GN on any access or privacy issue
- Issue an annual report

Although not explicitly mandated by the ATIPPA, the NUIPC also functions as a general resource on access and privacy issues for the GN and Nunavummiut. This function may include such activities as speaking with news media, offering information to citizens and civil servants, posting to social media, and issuing news releases.

The NUIPC has no authority under the ATIPPA to:

- Release government information (only the GN can do that).
- Review the actions of the federal government, a municipal government, or the private sector (the NUIPC has jurisdiction only over the GN).
- Issue orders to the GN (the NUIPC makes recommendations, which the GN may accept or reject).
- Punish anyone (only the GN can discipline its employees, and only the courts can impose a fine or award damages).

## Background

The ATIPPA was enacted by the Legislative Assembly of the Northwest Territories in 1994. On division in 1999, the ATIPPA became the law of Nunavut. It has been amended numerous times since division, but the core of the ATIPPA is still the NWT law from 1994.

At the time of division, Elaine Keenan Bengts was the Information and Privacy Commissioner (IPC) for the Northwest Territories. She was then appointed IPC for Nunavut as well, and held both positions, working from Yellowknife, until her retirement in late December 2020 (NWT) and early January 2021 (Nunavut).

On January 11, 2021, Graham Steele was appointed Nunavut's new, full-time, resident Information and Privacy Commissioner.

## Staffing

The staff of the NUIPC currently consists of the Information and Privacy Commissioner alone. Based on experience gained in 2021-22 and 2022-23, the IPC is able to manage the current workload of the NUIPC.

If the workload expands - whether because of growth in the number of complaints under the existing ATIPPA, or expansion of the ATIPPA to cover municipal governments, or the enactment of health-specific information legislation - then the staffing of the NUIPC will need to expand accordingly.

Until there is evidence of a permanent increase in workload, the NUIPC will handle any short-term increases in workload with short-term contracts. The same strategy will be used to address any files on which the IPC has a conflict of interest.

Because the NUIPC currently consists of a single appointee, there is no Inuit Employment Plan for the NUIPC.

## Relationship with the Office of the Legislative Assembly

The NUIPC is an independent office of the Legislative Assembly, and the IPC is an independent officer.

There are four other independent officers appointed by the Commissioner on the recommendation of the Legislative Assembly: the Languages Commissioner, the Representative for Children and Youth, the Integrity Commissioner, and the Chief Electoral Officer.

Despite the NUIPC's independence, the NUIPC is required to obey certain administrative legislation, including the provisions of the *Legislative Assembly and Executive Council Act* that give the Management and Services Board authority to issue directives to the independent officers.

In addition, certain administrative functions of the NUIPC are performed by the Office of the Legislative Assembly: for example, human resources, office leasing, financial administration, and information technology. This is an efficient way to operate a small office. It does mean that some of the costs of the NUIPC are absorbed in the OLA's overall budget.

## Priorities for 2023-26

In the NUIPC Annual Report for 2020-21, the IPC laid out six priorities for his five-year term running from January 11, 2021, to January 10, 2026:

- Run a high-functioning office that makes good decisions quickly, and which operates as an information and privacy resource both for GN employees and for citizens.
- Amend the ATIPPA to give the Commissioner the power to order the disclosure of documents. ...
- Review the ATIPPA. ...
- Enact health-specific information legislation. ...
- Gradually increase the capacity of the office so that it can handle the increase in work that will come with health-specific information

legislation, and also with the extension of the ATIPPA to Nunavut's municipalities.

- Groom a successor who is Inuk or a long-term Northerner, so that the position can be filled by someone who is fluent in Inuktitut and is able to move the work of this office forward according to the spirit of Inuit Qaujimajatuqangit and Inuit societal values.

The priorities identified for each of the next three years (see below) should be understood in the context of these six overarching priorities. As the IPC pointed out in the annual report, none of these priorities is entirely in his control. Making progress on all of them will require the active commitment and cooperation of the Executive Council and members of the Legislative Assembly.

## Priorities for 2023-24

- Maintain backlog of Review Reports at zero
- Maintain NUIPC website so that it is in all four official languages, quick to load, and easy to use
- Work with the government and MLAs to amend the ATIPPA to give the IPC the authority to issue orders in access cases
- Work with the Department of Community and Government Services (CGS), Nunavut Association of Municipalities (NAM), and the Nunavut Association of Municipal Administrators (NAMA), as requested by them, to develop a path towards application of the ATIPPA to municipalities
- Work with the GN Department of Health, as requested by them, on policy development for a health-specific access and privacy law
- Finalize job description for second full-time staff person and obtain all necessary staffing approvals
- Establish a written protocol with the Office of the Legislative Assembly concerning the relationship of the OLA and the NUIPC

## Priorities for 2024-25

- Maintain backlog of Review Reports at zero
- Work with GN, as requested by them, on policy development for a new ATIPPA
- Work with GN, as requested by them, on policy development for a health-specific access and privacy law
- Begin the process, in cooperation with the Office of the Legislative Assembly, to advertise for and hire a new Information and Privacy Commissioner to assume office in January 2026.
- Hire second full-time staff person

## Priorities for 2025-26

- Maintain backlog of Review Reports at zero
- Work with GN, as requested by them, on policy development for a new ATIPPA
- Work with GN, as requested by them, on policy development for a health-specific access and privacy law

## Budget

In the OLA Business Plan 2022-25, a budget of \$400,000 was projected for the NUIPC in fiscal year 2022-23, and \$490,000 in each of the fiscal years 2023-24 and 2024-25. This figure was the OLA's best estimate of the NUIPC's expenditures for those years. It was based on certain assumptions, primarily about staffing, that can now be re-examined in light of experience gained in 2021-23.

The primary driver of NUIPC expenditures over the next several years will be staffing. If there is a permanent increase in NUIPC workload, as discussed in the Staffing section above, then additional full-time staff will be required. However, the nature and timing of an increase in workload is unknown. It depends on legislative changes that may not occur at all, or

not for some years. The assumption in this business plan is that there will be no permanent increase in workload (and therefore no increase in permanent staff) in 2023-24, but there will be an increase in 2024-25 and beyond. In the meantime, any temporary increases in workload are best met by short-term contracts.

A second driver of NUIPC expenditures over the next several years will be the financial relationship between the OLA and the NUIPC. If the cost of services provided to the NUIPC by the OLA is more fully recovered from the NUIPC budget, as discussed in the Relationship section above, then NUIPC expenditures will rise. The assumption in this business plan is that the financial relationship between the OLA and the NUIPC will remain the same in 2023-26, i.e. the OLA will not recover any additional costs from the NUIPC budget, unless those costs are additional to the services currently being provided.

A third driver of NUIPC expenditures will be the course of the COVID-19 pandemic, and the associated public-health protection measures. During the fiscal year 2021-22, all duty travel, conference travel, and related expenses were suspended. These activities were slowly resumed in 2022-23. Unless public-health protection measures are re-imposed, there will be a modest increase in these expenses in 2023-24 and beyond.

	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>
NUIPC Budget	\$400,000	\$490,000	\$490,000