

Office of the Access  
to Information and  
Privacy Commissioner

New Brunswick



Commissariat à l'accès  
à l'information et à la  
protection de la vie privée

Nouveau-Brunswick

## REPORT OF THE COMMISSIONER'S FINDINGS

*Right to Information and Protection of Privacy Act*

Complaint Matter: 2014-1738-AP-947

Date: April 8, 2015

*"Case about access to special care home investigation information"*

## INTRODUCTION

1. The present Report of the Commissioner's Findings is made pursuant to subsection 73(1) of the *Right to Information and Protection of Privacy Act*, S.N.B. c.R-10.6 ("the Act"). This Report stems from a Complaint filed with this Office in which the Applicant requested that the Commissioner carry out an investigation into this matter.
2. On December 27, 2013, the Department of Social Development ("the Department") received a request to provide access to:

Any and all records related to an investigation of [a particular special care home], with findings and recommendations related to any inquiries into the home.

("the Request")

3. The Applicant sought records between January 2011 and December 17, 2013.
4. The Department responded on January 21, 2014 refusing access to any information in its possession on the matter, including whether or not an investigation was currently underway. In doing so, the Department relied on the confidentiality provisions of the *Family Services Act* (subsections 11(1) (*confidential personal information*), 11(2) (*two consents required for disclosure of confidential information*), and 27(3) (*confidentiality of investigation information*), all in conjunction with the *Right to Information and Protection of Privacy Act's* subsections 5(1) (*access prohibited or restricted by another law*) and 21(1) (*unreasonable invasion of a third party's privacy*) ("the Response").
5. The Applicant was not satisfied with the Department's Response and filed a complaint on January 27, 2014 and made these comments:

The home and the Province are responsible for ensuring the safe and well-being of residents of such a facility. How can the public have confidence this responsibility is being carried out properly if it is done in an entirely non-transparent manner? I understand and encourage the protection of privacy when it comes to those who are residents, or those who aided the Province in its investigation (i.e. complainants/witnesses), but beyond that, the cause, means and findings, and any orders resulting from the findings of an investigation into a home's administration should be available to the public for scrutiny.

(...)

I understand that some portions of records related to this request would reasonably be redacted to protect the privacy of individuals but I hope some records/sections of records can be released...

(“the Complaint”)

6. The Applicant also informed us that staff of the Department’s Communications branch was aware that the Applicant had filed a request for information under the *Act* and the Applicant questioned whether this was necessary for the Department to process the Request.

## INFORMAL RESOLUTION PROCESS

7. As in all complaint investigations, our Office first seeks to resolve the matter informally to the satisfaction of both parties and in accordance with the rights and obligations set out in the *Act*.
8. For all intents and purposes, in both the informal resolution process and the formal investigation, the Commissioner’s work remains the same: assessing the merits of the complaint and achieving a resolution that is in accordance with the *Act*.
9. The Commissioner’s authority to investigate and resolve complaints is established under section 68, and subsection 68(2) delineates the parameters of an informal resolution of a complaint:

68(2) The Commissioner may take any steps the Commissioner considers appropriate to resolve a complaint informally to the satisfaction of the parties and in a manner consistent with the purposes of the *Act*.
10. The words “*in a manner consistent with the purposes of the Act*” set the standards by which a resolution can be achieved. The informal resolution cannot signify a mediated settlement or an outcome obtained by the parties’ compromise.
11. The purposes of the *Act* set out in section 2 codify the public’s right of access and a public body’s statutory obligation to provide access while also protecting sensitive information. Section 2 also establishes an independent review mechanism led by the Commissioner for a public body’s decisions made in relation to those rights and obligations:

2 The purposes of this Act are

(a) to allow any person a right of access to records in the custody or under the control of public bodies, subject to the limited and specific exceptions set out in this Act,

(...)

(c) to allow individuals a right of access to records containing personal information about themselves in the custody or under the control of public bodies, subject to the limited and specific exceptions set out in this Act,

(...)

(e) to provide for an independent review of the decisions of public bodies under this Act.

12. It follows that the Commissioner's authority to affect an informal resolution of an access complaint requires that it be done in a manner that respects the law, upholds an applicant's access rights, and fulfills a public body's statutory obligations.
13. We recognize that a public body has the right to disagree with our interpretation of the *Act*, and in fact, we welcome such dialogues as it provides an excellent opportunity to better understand the public body's approach and its application of exceptions to disclosure. We strive to be thorough in all of our complaint investigations, and a public body's reasoning on how it thinks the *Act* should be applied in a particular case is a valuable contribution to our analysis, as are an applicant's comments or representations.
14. Having said this, however, the Commissioner and her Office will not, simply to affect a resolution of a complaint, allow the compromise of rights of access to information or a public body's statutory obligations to be fully upheld. The informal resolution process must remain consistent with the purposes of the *Act*.
15. Therefore, the Commissioner's informal resolution process is designed to achieve a lawful and proper outcome and has incorporated all of the same steps necessary to any investigation, with the added feature that a public body is invited to resolve the complaint by correcting any error it may have made in the application of the law when refusing access to information.
16. A full description of the steps involved in the Commissioner's information resolution process can be found on our website at <http://info-priv-nb.ca>. Below is a summary of what this process provides:

- to the public body, the benefit of our independent Office's interpretation of the law and an opportunity to correct any error in access that may have been made;
  - for the public body, the satisfaction of having complied with its obligations under the *Act*;
  - to the public who sought access to the information (the applicant), the benefit of an independent analysis of which information was truly required to be released under the *Act*; and
  - for the public, the satisfaction of understanding right of access to information and having that right respected under the *Act*.
17. We underline the fact that a public body is free to participate or not to participate in the informal resolution process as it is ultimately the decision-maker for the release or protection of information under the *Act*. Nevertheless, the Commissioner remains bound by her duties to ensure conformity with the *Act* and this means that a complaint must be resolved in conformity with the *Act*.
18. Where we find that the public body has not complied with the *Act*, and is not prepared to resolve the matter by correcting this compliance issue, we will issue formal recommendations in a Report of Findings under section 73.

***Informal resolution undertaken in this case***

19. We sought to resolve this case to the satisfaction of the parties and in conformity with the *Act* and to do so, we explained at the outset the tenor of the informal resolution process and were pleased that the Department was agreeable to participate.
20. We held good discussions with the Department's officials, reviewed all elements of the Request, results of the Department's search for and identification of relevant records, and obtained the Department's reasons why it had refused access to all of the requested information.
21. After our first analysis of the entire matter, we provided our initial findings to the Department that included analysis and explanations why we disagreed that all information about a special care home investigation was protected from disclosure. Our analysis showed that the Applicant was entitled under the *Act* to receive more information, albeit that some would remain lawfully protected.

22. The Department was amenable to providing the Applicant with additional information as part of the informal resolution process; however, the Department was unwilling to provide all of the information to which the Applicant was entitled to receive, including explanations for deficiencies in the Department's initial processing of the Applicant's Request.
23. In particular, the Department would not indicate that some of the requested information should not have been refused in the first place and it appeared to us from the wording used that the Department wanted to reserve the right to refuse access to the same type of information in future access to information cases.
24. Again, the Department was aware that it could disagree with our interpretation of the *Act* and in fact, it sought advice regarding our analysis. Although we appreciated and carefully reviewed all representations and the proposed revised responses provided to us by Department, we regrettably could not accept them as it would mean asking the Applicant to accept a resolution of the Complaint that was not in accordance with the *Act*.
25. As a result, the Complaint became the subject of the present Report of Findings to conclude our investigation as required by section 73 of the *Act*.
26. We have advised the Department that this Report of Findings addresses the errors in the processing of the Request, as well as our analysis of the confidentiality provisions relating to the Department's investigations under the *Family Services Act* and access rights to this kind of information under the *Right to Information and Protection of Privacy Act*.

## BACKGROUND

27. The Department is responsible for the licensing and monitoring of "community placement resources" in the Province, which include special care homes, under the authority of Part II (Community Placement Resources) of the *Family Services Act*.
28. As part of its regulatory role, the Department approves facilities to operate as special care homes, sets criteria and standards for these facilities, including admission and discharge, employment requirements, health and safety requirements, and so on.

29. The Department also oversees special care homes, and subsection 27(1) of the *Family Services Act* gives the Minister the authority to evaluate and investigate to ensure that they have the required approvals and are meeting established criteria and standards:

27(1) Where the Minister is advised that a community placement resource may be

- (a) operating without the Minister's approval;
- (b) disregarding the criteria for admission to or discharge from the community placement resource or the program or physical standards prescribed by the Minister or by regulation;
- (c) of inadequate quality; or
- (d) dangerous, destructive or damaging to a user of the community placement resource,

the Minister shall evaluate the community placement resource and may make such investigation as he considers necessary, including

- (e) entering the community placement resource;
- (f) inspecting records and documents of the community placement resource;

and

- (g) interviewing employees and users of the community placement resource.

30. We understand that in practice, the Department conducts routine inspections and spot checks, and investigates when necessary in response to complaints or when concerns have been raised that merit a formal investigation process by the Department. Investigation parameters can include the care of and conduct towards residents, financial audits into a facility's management of funds (including residents' personal accounts), reviews of medication administration, and the like.
31. The Department indicated that it treats investigations of special care homes as highly confidential.
32. Subsection 27(3) of the *Family Services Act* protects the information gathered in the course of such an investigation as follows:

27(3) Any statement, declaration or evidence made or given by a person at the request of the Minister pursuant to subsection (1) is confidential and for the information of the Minister only, and except for use in a court proceeding, no such statement, declaration or evidence may be inspected by any person without the written authorization of the Minister.

***In the present case***

33. The Department began looking into complaints made about the special care home in question in early 2013. Following its review in May of 2013, the Department issued a letter to the operator of the facility with its findings and recommendations for corrective measures. The Department continued to have concerns about the facility and decided to launch a formal investigation under section 27 of the *Family Services Act* in July 2013.
34. Department officials informed us that at the time of the Request, the Department's investigation had not yet been concluded, and this is why there was no investigation report or findings at that time.
35. The Department later confirmed to us that the investigation concluded in March 2014 and resulted in the Minister directing the facility to take action on eight corrective measures. We understand that the Department has provided the Applicant with a copy of these recommendations through informal means.

**INVESTIGATION and FINDINGS*****Identity of Applicant improperly revealed to Communications staff***

36. As indicated above, the Applicant complained that a member of the Department's communications staff was aware of the fact that the Applicant had made this Request and questioned why this was so. Department officials acknowledged that Communications staff was told of the identity of the Applicant who had submitted the Request because the Applicant was communicating with Communications about the same matter. The Department recognized this should not have occurred.
37. The Department informed us that it was not its practice to share an applicant's identity and that it had initiated steps to ensure that this does not happen again. In this regard, we will ensure that initiative remains and recommend that the Department revise its internal review process to protect the identities of applicants and limit that information to officials who need to know an applicant's identity in order to process or respond to a request, such as the Coordinator who processes a request, and the Minister, the Head of the Department who signs the resulting response.



***Inadequate search for relevant records***

38. Department officials asked staff in the regional office where the special care home was located to retrieve relevant records; however, very few records were retrieved at that time. It appeared the reason for this was that the Department would refuse access in full because its investigation of the special care home was still ongoing when it received the Request.
39. We reminded the Department of the importance of adequate searches based on the Applicant's right to receive a response regarding all of the relevant information, rather than the anticipated response; otherwise, the Applicant's right of access is not respected. This essential step in the processing of a request must be completed even when it appears that most of the relevant information may not be disclosed.
40. All relevant records must be retrieved and reviewed to properly and fully respond because the public body must inform an applicant whether he or she has the right of access to any of the requested information.
41. For these reasons, we find that the Department failed to conduct an adequate search for records when it processed the Applicant's Request.

***Delays for records not being available during our investigation***

42. We do raise another important point. The Department's search proved to be a significant obstacle during the course of our investigation as it took a considerable amount of time for officials to retrieve all of the relevant records and provide them for our review.
43. Our role as oversight body in any complaint investigation, including this one, was to verify whether the Department had met all of its obligations which required us to review all of the relevant records relating to the Complaint matter. Timeliness of our work is impeded when this information is not prepared and available for our review at the outset of our investigation.
44. For future requests, we will thus be recommending that the Department ensure, even where it appears that most of the relevant information is protected from disclosure, that all relevant records be identified, retrieved, and reviewed so as to provide a full and accurate response to an applicant.

45. And with a view to find solutions to the Department's difficulties in being able to adequately search and retrieve all of the requested information, we will recommend that the Department staff who are asked to search (such as regional offices for relevant records in their respective offices) complete a sign-off sheet stating that they have conducted a full search and retrieved all of the requested records. The sign-off sheets can be sent back to the Right to Information Coordinator with search results.

### ***Response content not meaningful***

46. The content of the Department's Response was not meaningful as it did not indicate whether an investigation had been undertaken, did not identify whether it held any relevant records, and if so, what these records consisted of, and did not provide meaningful explanations as to why the law prevented the disclosure of the requested information.
47. To its credit, the Department recognized during the complaint resolution process that it could have provided a more meaningful response, although the Department has been reminded of this obligation in the past.
48. We will therefore recommend that the Department respect its obligations under section 9, the duty to assist an applicant in an open and accurate manner, and section 14, Content of a response, to provide meaningful responses to access requests.

### **Department's decision to refuse access in full**

49. As indicated above, the reason behind the Department's initial refusal to disclose any information to the Applicant, including whether an investigation had been undertaken in relation to the facility in question, was based on the Department's established practice to only disclose information when specifically asked whether an investigation had been completed and resulted in findings of wrongdoing.
50. In all other circumstances, the Department's established practice was to refuse to provide any information, including whether an investigation had in fact been undertaken by the Department.

51. The Department believed that this practice was in keeping with the confidentiality requirements relating to investigations under the *Family Services Act* as well as the *Right to Information and Protection of Privacy Act*.
52. After reviewing all of the relevant records and the applicable provisions of both the *Family Services Act* and the *Right to Information and Protection of Privacy Act*, we found that the vast majority of information collected and generated by the Department during the course of a special care home investigation would be protected from disclosure; however, the law did not prevent the Department from providing some information, particularly whether an investigation has been undertaken and the general conclusions of such an investigation.
53. We explain our findings below.

*Refusing to confirm or deny whether an investigation has been undertaken*

54. We respectfully disagree with the Department's practice of refusing to disclose whether an investigation has been undertaken or is ongoing and do not find it to be in accordance with the confidentiality provisions found in the *Family Services Act*.
55. The fact that an investigation has been launched into a particular facility does not constitute "personal information" for the purposes of subsections 11(1) and 11(2) of the *Family Services Act*. Furthermore, it is not a "statement, declaration, or evidence made or given by a person at the request of the Minister" for the purposes of subsection 27(3). These provisions collectively serve to protect statements, declarations and evidence given by individuals in the course of a formal investigation under section 27, as well as the personal information of residents of a special care home and the identify of individuals who have made complaints or referrals to the Department about a matter administered under the *Family Services Act*.
56. We find that applying these provisions to include the fact of whether an investigation has been undertaken to be an overly broad interpretation of the confidentiality provisions of the *Family Services Act*.
57. We also disagree that this information is protected from disclosure under the *Right to Information and Protection of Privacy Act* for the following reasons.

58. Section 14 of the *Act* does permit a public body to refuse to confirm or deny the existence of records, but only in certain limited circumstances:
- 14(2) Despite paragraph (1)(c), the head of a public body may in a response, refuse to confirm or deny the existence of
- (a) a record containing information for which disclosure may be refused under sections 28 and 29, and
  - (b) a record containing personal information about a third party if disclosing the existence of the record would be an unreasonable invasion of the third party's privacy.
59. Section 14 allows a public body to be less than totally responsive to an access request where there are other interests at play, and those interests trump the right of access. For instance, where records can be protected from disclosure under section 28 (*disclosure harmful to safety*), section 29 (*disclosure harmful to law enforcement/legal proceedings*), or section 21 (*unreasonable invasion of privacy*), and a public body having to confirm whether any such records exist could undermine the purpose of the exception in some cases.
60. We provide an example. Where a police force decides to conduct an undercover operation and the police can show the operation would be compromised if the public was made aware of its existence; in such as case, the police force could rely on subsection 14(2) to refuse to confirm or deny the existence of any relevant records to protect the integrity of the operation. In another example, where a person has changed his or her legal name after getting out of an abusive relationship, the *Act* allows for a public body to refuse to confirm or deny whether a record exist about the name change in order for the public body to protect that person's privacy.
61. Having said this, however, to meet the requirements of subsection 14(2), the *Act* places a burden on the public body to show why it does not wish to confirm or deny even the existence of relevant records, i.e., what are the circumstances, details and convincing evidence. This is not an easy burden for a public body.
62. We considered the Department's practice on this point in light of the above, particularly paragraph 29(1)(a) (*disclosure harmful to law enforcement matter*).
63. The *Act* defines "law enforcement" as:

a police, security intelligence or administrative investigation, including the complaint giving rise to the investigation, that leads or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the investigation or by another body to which the results of the investigation are referred...

64. We recognize that the Minister's investigation of a special care home — to look into whether licensing requirements and standards of care as set by the Minister are being met — can be considered an administrative investigation. Where the Minister finds that a special care home is not meeting these requirements, the Minister has the authority to recommend corrective measures, or to suspend or revoke the licence. The Minister has the authority to impose a penalty or sanction on a finding of wrongdoing or non-compliance. In our view, the Minister's investigation of a special care home under the *Family Services Act* meets the definition of "law enforcement" for the purposes of the *Act*.
65. Exceptions under section 29 are discretionary, however, and require the Department to establish on a case-by-case basis how the disclosure of the fact that an investigation into a particular facility is underway would be harmful to the investigation itself.
66. The Department had concerns about disclosing whether an investigation has been undertaken because the investigation had not been concluded with findings of wrongdoing; yet, the Department failed to present any facts to show that disclosing the fact that the investigation was underway would be detrimental to the investigation. The Department did not meet the burden.
67. We point out that in this case, many members of the community were advised of the Department's investigation and were thus aware that this was taking place. Investigation notices were issued to the current residents of the facility, family members of the residents, as well as former residents of the facility indicating that an investigation of the special care home was being undertaken under section 27 of the *Family Services Act* and gave contact information for a Department official. The notice did not indicate that either the notice of or the investigation itself was confidential. In addition, staff of the facility was also aware of and participated in the Department's investigation.

68. For these reasons, we find that the fact that the Department is investigating a particular facility is not protected information under either the *Family Services Act* or the *Right to Information and Protection of Privacy Act*.
69. In the future, the Department, where requested, should disclose the fact that it has undertaken an investigation, unless it can lawfully establish reasons why this fact cannot be disclosed, on a case by case basis; a recommendation to this effect will follow.

*Records relating to complaint investigations under the Family Services Act*

70. As indicated above, after reviewing the relevant records and the applicable provisions of both the *Family Services Act* and the *Right to Information and Protection of Privacy Act*, we found, in agreement with the Department, that the law protects the disclosure of the vast majority of information related to the Department's investigation of a special care home.
71. Generally speaking, this information can include:
- Complaints and referrals made to the Department about a special care home,
  - Incident reports prepared by the facility and submitted to the Department,
  - Notes of interviews with residents, staff, and the operator of a special care home,
  - Reviews of administration of medication to residents,
  - Financial audit of a special care home's operations, including the management of residents' personal accounts, etc.
72. Subsection 27(3) of the *Family Services Act* only applies when a formal investigation into a particular facility has been launched and provides broad protection for the information gathered in the course of such an investigation; however, the Department also investigates complaints and referrals about special care homes outside of the formal investigation process.
73. Subsection 11(1) of the *Family Services Act* provides: "All information acquired by the Minister or another person in relation any person or matter under this Act, whether of a documentary nature or otherwise, is confidential," but limited "to the extent that its release would tend to reveal personal information about a person identifiable from the release of the information."

74. Complaints and referrals are appropriately considered to be “personal information,” as they constitute a person’s views and opinions about a situation of such concern that it is brought to the Department as a complaint or referral. The Department can appropriately protect such personal information under 21(2)(c) of the *Right to Information and Protection of Privacy Act*—“disclosure could reasonably be expected to reveal the identity of a third party who has provided information in confidence to a public body for the purposes of law enforcement or the administration of an Act of the Legislature...”
75. As such, we find there is no conflict with the *Family Services Act* provisions and the *Right to Information and Protection of Privacy Act* to trigger subsection 5(2) and therefore prevail over the latter.
76. There being no conflict or inconsistency between the two provisions, the Department can apply 21(2)(c) of the *Right to Information and Protection of Privacy Act* as grounds to refuse access to information of this nature.
77. As for the Department’s formal investigation process, subsection 27(1) of the *Family Services Act* authorizes the Minister to conduct investigations of community placement resources, including special care homes, as deemed necessary under certain circumstances. This provision only comes into play only after the Minister has launched an investigation under subsection (1) and has requested and obtained from individuals pertinent information as part of that investigation process. If these steps have taken place, subsection 27(3) serves as a form of privilege to protect any statements, declarations or evidence that individuals provide as part of the Minister’s investigation. Any such statements, declarations or evidence provided are confidential and cannot be disclosed without the Minister’s written authorization (except in the case of a court proceeding, which has the power to compel the production of such information).
78. Statements, declarations, evidence provided by individuals include personal information (statements, declarations), but also “evidence,” which could be financial information, information about the facility, and the like.
79. Subsection 27(3) of the *Family Services Act* offers stronger protections against disclosure than found in the *Right to Information and Protection of Privacy Act*—an individual cannot provide consent to disclose this information, it can only be disclosed through court proceedings or with the Minister’s written authorization. As such, this provision is conflict and/or inconsistent with those of the *Right to Information and Protection of*

*Privacy Act*, and we find that it prevails for the purposes of statements, declarations, and evidence provided at the Minister's request during an investigation under subsection 27(1).

80. Based on the above, we therefore find that the Department properly relied on subsection 11(1) of the *Family Services Act* and subsection 21(1) of the *Right to Information and Protection of Privacy Act* in refusing access to the records relating to the Department's complaint investigation. Further, we also find that the Department properly relied on subsection 27(3) of the *Family Services Act* in refusing access to the information and records compiled during the formal investigation launched under section 27.
81. We do not find, however, that the Department was entitled to refuse access to all of the relevant records.
82. At the conclusion of its review of the complaints it received involving the special care home, the Department issued a letter to the operator of the facility with a summary of the concerns, violations of the Standards, and its findings and recommendations for corrective measures. This information was not protected from disclosure under the law and should have been provided to the Applicant, with redactions for some information to protect personal information of the operator of the facility as well as that of a resident of the facility (in accordance with subsection 21(1) of the *Right to Information and Protection of Privacy Act* and subsection 11(1) of the *Family Services Act*).
83. In addition, the briefing note prepared by Department staff dated July 12, 2013 recommending that a formal investigation of this special care home be undertaken under section 27 of the *Family Services Act* was not protected from disclosure and should have been provided to the Applicant, with redactions to protect the identity of those who raised concerns with the Department (in accordance with paragraph 21(2)(c) of the *Right to Information and Protection of Privacy Act*—identity of a person who has provided information in confidence for the purposes of law enforcement).
84. A recommendation will issue for the release to the Applicant of this information. We reiterate that the results of the investigation must also be considered for release; in this case, those results involving the special care home were communicated to the Applicant.



## RECOMMENDATIONS

85. Based on our findings above, we recommend pursuant to subparagraph 73(1)(a)(i) of the *Act* that:
- a. The Department release to the Applicant its letter to the operator of the facility containing a summary of the concerns, violations of the Standards, and its findings and recommendations for corrective measures, with redactions for some information to protect personal information of the operator of the facility as well as that of a resident of the facility (in accordance with subsection 21(1) of the *Right to Information and Protection of Privacy Act* and subsection 11(1) of the *Family Services Act*); and,
  - b. The Department release to the Applicant the briefing note prepared by Department staff dated July 12, 2013 recommending that a formal investigation of this special care home be undertaken under section 27 of the *Family Services Act*, with redactions to protect the identity of those who raised concerns with the Department (in accordance with paragraph 21(2)(c) of the *Right to Information and Protection of Privacy Act*—identity of a person who has provided information in confidence for the purposes of law enforcement).
86. Based on our findings above, and in accordance with paragraph 60(1)(f) of the *Act*, the Commissioner also recommends that the Department respect its obligations under section 9, namely its duty to assist an applicant in an open and accurate manner and section 14, such that the Department is reminded of its statutory obligation to provide in all cases, meaningful responses to access requests received under the *Act*.
87. Based on our findings above, and in accordance with paragraph 60(1)(h) of the *Act*, the Commissioner also recommends that:
- a. the Department implement measures that revise its internal review process to protect the identities of applicants and limit that information to officials who need to know an applicant's identity in order to process or respond to a request, such as the Coordinator who processes a request, and the Minister, the Head of the Department who signs the resulting response;

- b. the Department ensure, even where it appears that most of the relevant information is protected from disclosure, that all relevant records be identified, retrieved, and reviewed so as to provide a full and accurate response to an applicant;
- c. the Department staff who are asked to search (such as regional offices for relevant records in their respective offices) complete a sign-off sheet stating that they have conducted a full search and retrieved all of the requested records, and that such sign-off sheets be sent back to the Right to Information Coordinator with search results in each case; and,
- d. in the future, the Department disclose the fact that it has undertaken an investigation and the results of the investigation, unless circumstances exists where the Department can properly exercise its discretion to refuse to disclose such information.

Dated at Fredericton, NB, this \_\_\_\_\_ day of April, 2015.

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Anne E. Bertrand, Q.C.  
Access to Information and Privacy Commissioner