
INFORMATION AND PRIVACY COMMISSIONER OF NUNAVUT

An Independent Officer of the
Legislative Assembly of Nunavut

Position Profile



Legislative Assembly of Nunavut

January 2020

www.assembly.nu.ca

INFORMATION AND PRIVACY COMMISSIONER OF NUNAVUT

I. ENABLING LEGISLATION, PURPOSE AND MANDATE

The position of Information and Privacy Commissioner of Nunavut is established pursuant to section 61 of the *Access to Information and Protection of Privacy Act*. The Information and Privacy Commissioner exercises a range of powers and responsibilities under the legislation.

The *Access to Information and Protection of Privacy Act* was inherited by Nunavut on April 1, 1999. It has been amended by the Legislative Assembly of Nunavut on a number of occasions over the past two decades. The legislation prescribes the rules concerning the collection, use and disclosure of information about individuals by Nunavut public bodies. It also prescribes the rules by which the members of the public may request access to public records.

The Information and Privacy Commissioner conducts reviews of decisions of public bodies concerning requests for access to public records and makes recommendations following each review. The Information and Privacy Commissioner may also review complaints that a public body may have collected, used or disclosed personal information in contravention of the Act. The Information and Privacy Commissioner has the obligation to promote the principles of the Act through public education. The Information and Privacy Commissioner is also mandated to provide the government with comments and recommendations with respect to legislative and other government initiatives which affect access to information or the management of personal information in the possession of a public body.

In 2017, the *Access to Information and Protection of Privacy Act* was amended by the Legislative Assembly to expand the definition of “public body” to include an “agency, board, commission, corporation, office, municipality or other body designated in the regulations.” There are 25 municipalities in Nunavut. As of August 2019, the *Access to Information and Protection of Privacy Regulations* had not yet been amended to designate which municipalities are considered to be “public bodies” under the legislation. However, it can be anticipated that their inclusion, over time, will significantly impact the workload of the Information and Privacy Commissioner.

II. ACCOUNTABILITY TO THE LEGISLATIVE ASSEMBLY AND STATUTORY REPORTING REQUIREMENTS

The Information and Privacy Commissioner is appointed by the Commissioner of Nunavut on the recommendation of the Legislative Assembly for a five-year term of office. The Information and Privacy Commissioner holds office during good behaviour.

The Management and Services Board of the Legislative Assembly approves the remuneration and budgets of all independent officers of the Legislative Assembly. From time to time, the Management and Services Board may issue directives concerning the operations of offices of independent officers in respect to the areas of financial management, human resources management, contracting and procurement.

Under section 68 of the *Access to Information and Protection of Privacy Act*, the Information and Privacy Commissioner is required to submit an annual report to the Speaker of the Legislative Assembly on the activities of his or her office during the previous fiscal year. The annual report may contain recommendations for amendments to the legislation and other matters. The annual report is tabled in the Legislative Assembly. From time to time, the Information and Privacy Commissioner may prepare and submit special reports to the Legislative Assembly.

Pursuant to its approved *Terms of Reference*, the Legislative Assembly's Standing Committee on Oversight of Government Operations and Public Accounts (OGOPA) holds televised hearings on the reports of the Information and Privacy Commissioner. The hearings are held in public. The Information and Privacy Commissioner is expected to appear before the standing committee to account for the contents of his or her reports and to respond to questions from members of the standing committee. The standing committee subsequently presents its own report to the Legislative Assembly.

III. SPECIFIC ACCOUNTABILITIES

The following does not represent an exhaustive listing of the responsibilities of the Information and Privacy Commissioner. Rather, these accountabilities are the primary indicators against which performance will be measured in assessing the overall success of the independent officer. The complete and prescriptive descriptions of the role, responsibilities, authorities and legal requirements of the position of Information and Privacy Commissioner are contained in the *Access to Information and Protection of Privacy Act*.

- The Information and Privacy Commissioner shall develop such forms and processes are required to fulfill his or her responsibilities under the *Access to Information and Protection of Privacy Act*.
- The Information and Privacy Commissioner shall, on request, provide written or verbal advice to individual Members of the Legislative Assembly (MLAs) concerning their obligations and rights under the *Access to Information and Protection of Privacy Act*.
- The Information and Privacy Commissioner shall conduct reviews and make reports and recommendations in the manner prescribed by sections 28-36 of the *Access to Information and Protection of Privacy Act* concerning decisions of public bodies in relation to requests for access to records or correction of personal information.
- The Information and Privacy Commissioner shall conduct reviews and make reports and recommendations in the manner prescribed by sections 49.1 to 49.14 of the *Access to Information and Protection of Privacy Act* concerning alleged contraventions of the legislation in respect to the collection, use or disclosure of personal information held by public bodies.
- The Information and Privacy Commissioner shall maintain detailed statistics and records concerning the annual activities of his or her office.
- The Information and Privacy Commissioner shall, pursuant to section 68 of the *Access to Information and Protection of Privacy Act*, prepare an annual report to the Legislative Assembly. The Information and Privacy Commissioner shall, on invitation, appear before the appropriate standing committee of the Legislative Assembly to account for the contents of the report and respond to questions from members of the standing committee at its televised hearings.
- The Information and Privacy Commissioner shall, on request from the Management and Services Board or a standing committee of the Legislative Assembly, provide written submissions concerning Bills under consideration by the Legislative Assembly.
- The Information and Privacy Commissioner shall liaise with the Government of Nunavut's Manager of Access to Information and Protection of Privacy with respect to training for members of the public service, providing comment on proposed legislation and other related matters.

- The Information and Privacy Commissioner shall develop and make available information resources to assist the public in understanding the role of the Information and Privacy Commissioner. These resources will be accessible to the public through an up-to-date website. The website shall include such items as the Information and Privacy Commissioner's *Review Recommendations*, government responses to *Review Recommendations*, annual reports and special reports.
- The Information and Privacy Commissioner shall undertake such other public education initiatives as he or she deems appropriate within the resources allocated for the office's activities.

IV. BUDGET

The Management and Services Board of the Legislative Assembly approves the remuneration and budgets of all independent officers of the Legislative Assembly. From time to time, the Management and Services Board may issue direction concerning the operations of offices of independent officers in respect to such areas as financial management, human resources management, contracting and procurement.

Financial Resources

Between 1999 and 2019, the Office of the Information and Privacy Commissioner was physically located in Yellowknife, Northwest Territories, as the office-holder served as Information and Privacy Commissioner for both Nunavut and the Northwest Territories. Certain costs associated with the operation of the office were shared between the legislatures of the two jurisdictions. The present incumbent has indicated that she will retire following the end of her present term of office on March 5, 2020. Physical office space has been secured in Iqaluit for the Office of the Information and Privacy Commissioner.

Approximate Annual Operations and Maintenance Budget: \$125,000 (under review).

Human Resources

The Information and Privacy Commissioner may hire full-time and casual employees and engage counsel, experts and other persons to carry out the functions of the office. Employees of the Office of the Information and Privacy Commissioner are members of the territorial public service. Hiring practices and procedures are conducted in compliance with all relevant Government of Nunavut authorities, including the *Public Service Act* and the *Human Resources Manual*.

V. PROFESSIONAL DEVELOPMENT AND ASSOCIATIONS

The Information and Privacy Commissioner of Nunavut participates in an annual conference with his or her federal, provincial and territorial counterparts. From time to time, the Information and Privacy Commissioner will participate in interjurisdictional meetings concerning such specialized topics as electronic health records. The Information and Privacy Commissioner is expected to undertake independent reading in order to remain current with relevant literature in the fields of access to information and protection of privacy.

VI. TERMS AND CONDITIONS OF EMPLOYMENT

The Information and Privacy Commissioner is appointed by the Commissioner of Nunavut on the recommendation of the Legislative Assembly for a five-year term of office. The Information and Privacy Commissioner holds office during good behaviour. The Commissioner of Nunavut, on the recommendation of the Legislative Assembly, may, for cause or incapacity, suspend or remove the Information and Privacy Commissioner.

The Management and Services Board of the Legislative Assembly approves the remuneration of all independent officers of the Legislative Assembly. A comprehensive remuneration package is provided for this five-year statutory appointment. Although the Information and Privacy Commissioner is not considered to be a member of the public service within the meaning of the *Public Service Act*, the remuneration and benefits package for the position is generally equivalent to that which is provided to senior managers in the territorial public service. The detailed terms and conditions of employment and the associated benefits will be specified in the contract of employment.

The Office of the Information and Privacy Commissioner is physically located in Iqaluit, Nunavut.

VIII. COMPETENCIES

The demands of this position require skills and attributes that go far beyond those obtained simply through academic qualifications. In addition to the formal educational and professional certifications required for the role, the Information and Privacy Commissioner must have the proven ability to apply a balanced, common sense approach to carrying out the duties of the position, while exercising sound judgment and demonstrating fairness and integrity.

Credibility in the legal and government community is critical. The Information and Privacy Commissioner must have an understanding of the constitutional and political context of the position's role and the ability to carry out its functions with the dignity befitting an independent officer of the Legislative Assembly of Nunavut.

1. Formal Qualifications and Credentials

- The Information and Privacy Commissioner must be legally entitled to practice law in Nunavut. The Information and Privacy Commissioner must have a degree in law from an accredited Canadian university. The Information and Privacy Commissioner is required to obtain membership in the Law Society of Nunavut.

2. Knowledge and Experience

- A thorough knowledge of administrative law, including the principles of natural justice in the conduct of reviews and investigations;
- A thorough understanding of national trends concerning access to information and protection of privacy legislation; and
- Working knowledge of the Canadian parliamentary system and an understanding of the unique characteristics of the Legislative Assembly of Nunavut.

3. Skills and Abilities

- Proficiency in both the Inuit Language and English is a definite asset;
- Strong problem-solving skills, including a demonstrated ability to conduct fair and impartial investigations;
- Proven analytical and decision-making skills;
- Strong writing skills, including a demonstrated ability to prepare written judgements or similar documents; and
- Strong financial and human resources management skills, including the ability to motivate and lead teams in achieving common objectives.