



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

BY Email

January 28, 2021

Mr. Kevin Breen
City Manager
City of St. John's
P.O. Box 908
St. John's, NL A1C 5M2
Email: citymgr@stjohns.ca

Dear Mr. Breen:

Subject: Inaccurate Statements Regarding the Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015) in in Report on Ward 2 By-Election

I read with interest the report produced on the Ward 2 By-Election in which statements were made about the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)* and how it is impacting the City's ability to produce an accurate voters list. In particular, on page 13 it states, in part:

ATIPP legislation in the Province of NL severely restricts or prohibits such access between levels of government bodies and regulatory agencies.

...

The City of St. John's relies on the permanent list of electors provided by Elections NL. Due to privacy legislation, the City has minimal access to government databases outside its own jurisdiction to assist with data cleansing. These limitations compromise the City's ability to administer an accurate voters list, an essential component to the City's current method of mass mailing.

Our Office disagrees with the characterization of the barriers presented by *ATIPPA, 2015*. As these mischaracterizations appear to lend support to a recommendation to lobby the province for electronic voting, we wanted to ensure these inaccuracies are addressed.

The Report does not specify the particular sections of the Act that the City finds problematic. Our review of the Act revealed provisions that could potentially authorize the City to indirectly collect the information from other public bodies, for example. We suspect that the City is already relying on them when collecting information from Vital Statistics in order to remove deceased individuals from the voters list. Furthermore, section 62(1)(a)(ii) says that the Commissioner may authorize public bodies to collect information from sources other than the individual the information is about. We have not yet received such a request from the City, so while we cannot prejudge how we would respond to it and whether it would assist the City's

goal of obtaining information to ensure accuracy of the voters list, we are open to considering such an option.

We would be pleased to have a further discussion with City officials if we can assist in providing guidance on interpretation of the *ATIPPA, 2015* in order to address the issues the City is experiencing with the voters list.

At this time, I would also like to highlight a white paper published by this Office last year entitled [Internet Voting – Privacy and Security Risks](#). Given that the Ward 2 Report has been tabled in a public meeting at Committee of the Whole for consideration of all Council, and that one of the recommendations in that Report is to pursue statutory changes to enable electronic voting, we would appreciate it if this letter and our Internet Voting paper could also be tabled for Council's benefit as it considers the relevant matters before it. If you have any questions, please do not hesitate to contact me at 729-6309.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Michael Harvey', with a long horizontal flourish extending to the right.

Michael Harvey
Information and Privacy Commissioner

cc Ms. Elaine Henley – City Clerk
Ms. Kenessa Cutler – ATIPP Coordinator