REPORT OF THE COMMISSIONER'S FINDINGS

Right to Information and Protection of Privacy Act

Complaint Matter: 2011-212-AP-110
July 15, 2011
Office of the Access to Information and Privacy Commissioner of New Brunswick

INTRODUCTION and BACKGROUND

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 the matter.

2. The backdrop to this matter is a lawsuit was filed with the courts in October 2008 by an organization called *Égalité santé en français N.-B. Inc.* ("*Égalité santé*") against the Province, the Premier, and the Minister of Health. The lawsuit launched a constitutional challenge against the Province's substantial restructuring plans to create two Regional Health Authorities, claiming that the restructuring plan would violate language rights in the health care sector. The organization retained Michel Bastarache of the law firm Heenan Blaikie in Toronto, and Michel Doucet, a Professor with the Faculty of Law at the Université de Moncton.

3. The media reported in February 2010 that information provided pursuant to a right to information request indicated that the Province had retained the law firms of Cox & Palmer, Stikeman Elliot and Stewart McKelvey to defend against the lawsuit and that legal fees paid between November 2008 and November 2009 exceeded one million dollars.

4. The media reported that *Égalité santé* reached an agreement with the Province in April 2010 and that the lawsuit was dropped.

5. On November 16, 2010, the Applicant submitted a request for information to the Office of the Attorney General and the Department of Justice and Consumer Affairs seeking the following information:

> I request a detailed account of any public funds paid to lawyers involved in a lawsuit involving the Comité pour l'égalité en santé and the New Brunswick government. Specifically, I request an accounting of all public funds paid to Michel Bastarache, retired Supreme Court of Canada Justice, and Michel Doucet, a law professor at the Université de Moncton, and any other law firms in New Brunswick or other jurisdictions involved in the lawsuit.

6. It should be noted that the Office of the Attorney General and the Department of Justice and Consumer Affairs are two different public bodies, despite the fact that the positions of

the Attorney General and that of the Minister of Justice and Consumer Affairs are currently held by the same Member of the Legislative Assembly.

7. The Office of the Attorney General and the Department of Justice and Consumer Affairs provided a joint response to the Applicant on December 16, 2010 as follows:

> [*Department of Justice and Consumer Affairs*]
>
> The Department of Justice and Consumer Affairs has completed a review of its files and has determined that these records do not exist therefore your request to that Department is being refused. Because we have refused this request, you have the right to refer this matter to the Court of Queen's Bench for review in accordance with section 65 of the Act. Alternatively, in accordance with section 67 of the Act, you may file a complaint with the Access to Information and Privacy Commissioner.
>
> [*Office of the Attorney General*]
>
> With respect to the Office of the Attorney General, please be advised that the *Act* does not apply to the records you have requested, due to the fact that these records, if they exist, would pertain to the legal affairs that relate to the performance of the duties and functions of the Office of the Attorney General.
>
> Section 4 of the *Act* clearly establishes the parameters of the legislation in this respect. Paragraph 4(b) reads as follows:
>
> > 4 This Act applies to all records in the custody of or under the control of a public body <u>but does not apply to</u>
> > (b) a record pertaining to the legal affairs that relate to the performance of the duties and functions of the Office of the Attorney General.

8. Following the receipt of this reply, the Applicant made the same request for information directly to the Department of Health which was the public body at the heart of the lawsuit on December 23, 2010 ("the Request").

9. The Department of Health did not process the Request, instead deciding to transfer the Applicant's Request to the Attorney General and Minister of Justice and Consumer Affairs as permitted by section 13 of the *Act*.

10. Under section 13, the transfer of a request for information is a discretionary measure which may be utilized in some cases. It should be noted that applicants have a right to complain about a transfer of requests for access. The Applicant did not file a complaint regarding the transfer of the Request in this case.

11. As a result of the transfer of the Request, the Office of the Attorney General and Department of Justice and Consumer Affairs provided a response to the Applicant once again, on behalf of both entities, on January 24, 2011, as follows:

> I would note that this request is identical to the request you submitted to the Department of Justice and Consumer Affairs and the Office of the Attorney General on November 16th, 2010. As indicated in the response provided previously, dated December 16th, 2010, the Department of Justice and Consumer Affairs determined that these records did not exist therefore the request to that Department was refused. With respect to the Office of the Attorney General, I advised that the *Act* does not apply to the requested records due to the fact that these records, if they existed, would pertain to the legal affairs that relate to the performance of the duties and functions of the Office of the Attorney General. Section 4 clearly indicates that the Act does not apply [to] these matters. Please refer to our previous correspondence for more details on the matter. ("the Response")

12. The Applicant filed the Complaint with this Office on February 18, 2011 after not being satisfied with this Response. In the Complaint, the Applicant wrote:

> …it is standard practice for handing over legal fees and statements. I have examples from the past, particularly from NB Power, of legal fees that I've received through the RTI [*Right to Information*] process.
>
> Further, public money should be public money, all I've asked for is the amount of public money paid to the lawyers.

INFORMAL RESOLUTION PROCESS

13. As with any complaint under investigation by the Commissioner's Office, we first seek to resolve the matter informally, to the satisfaction of both parties, and in accordance with the rights and obligations provided by the *Act*.

14. The informal resolution process provides guidance to both public bodies and applicants with a view to better understand this new legislation. This process has been developed by our Office based on the spirit of the *Act* and in accordance with the parameters of the Commissioner's investigative powers under Part 5. It is hoped that in all cases, the informal resolution process will lead to a prompt and satisfactory outcome to the complaint (*Note*: A full description of the steps involved in the Commissioner's informal resolution process can be found in **Appendix A** of this Report).

15. The initial step undertaken by the Commissioner in this process was to review the Request and the Response in order to determine whether the Response met the requirements of the *Act*.

16. In this case, we noted that the joint Response of these two public bodies provided different answers to the Request. While the Response of the Department of Justice and Consumer Affairs indicated that the requested records did not exist, the Response of the Office of the Attorney General refused to confirm whether the requested records existed, the latter based upon the Office of the Attorney General's interpretation of paragraph 4(b) of the *Act*.

17. We first ascertained that the Department of Justice and Consumer Affairs did not in fact hold any records that would be relevant to the Request as it was not involved in the lawsuit in question. We therefore continued our informal resolution process involving only the Office of the Attorney General.

18. In our efforts to reach an informal resolution of this Complaint, we held meetings with officials of the Office of the Attorney General. The subject of our discussions centered on the public bodies' duty to assist the Applicant when processing a request and the response which must comply with the requirements of section 14. Furthermore, our discussions focused on the interpretation and application of paragraph 4(b).

19. The Office of the Attorney General interpreted paragraph 4(b) to mean that the *Act* did not apply to the records and therefore the *Act* in its entirety did not apply to the Request.

20. Paragraph 4(b) states that the *Act* is not applicable to records that relates to its "legal affairs". Throughout our discussions, the Office of the Attorney General used the words "legal affairs", "legal files" and "litigation files" interchangeably, and we should mention that the synonymous use of "legal file" and "litigation file", which we view as an important distinction, will be discussed later on in this Report.

21. As the Office of the Attorney General further emphasized that most of its work involves giving legal advice to government bodies, the Office of the Attorney General's broad approach to paragraph 4(b) signifies that substantially all its records are contained in legal and/or litigation files and are thus exempt from the *Act*.

22. In other words, the Office of the Attorney General's stated position in this case is that when it decides the requested information is contained in records which fall under paragraph

4(b), access to that information will not take place because there is no right of access to those records. The Office of the Attorney General reasons that where it deems the records fall outside the scope of the *Act*, the rules for processing the access request also do not apply. The Office of the Attorney General is therefore of the view that the matter cannot be reviewed by the Court or the Commissioner.

23. Paragraph 4(b) was adopted when the *Right to Information and Protection of Privacy Act* was debated and passed by the Legislative Assembly in 2009 (proclaimed on September 1st, 2010). There is no equivalent provision in the previous statute or in any other access to information legislation in Canada.

24. Given the steadfastly held view of the Office of the Attorney General that excluded records cannot be the subject of a complaint or review by the Court or the Commissioner, we were not permitted to review the requested records. We were therefore unable to determine whether the requested records properly fell within the exclusion found in paragraph 4(b).

25. This brought the informal resolution process to an end and the matter thus became the subject of the present Report on our findings.

LAW AND ANALYSIS

26. The underlying question of the investigation of this Complaint was the interpretation and application of paragraph 4(b), the first test of this exclusionary clause.

27. With respect, we cannot accept the Office of the Attorney General's interpretation that when it decides records are excluded by paragraph 4(b), that the entire process of responding to an access request is also excluded from the *Act*, and that a complaint cannot be entertained on that decision. Our reasons are as follows.

Paragraph 4(b)

28. Paragraph 4(b) of the Act states as follows:

> 4 This Act applies to all records in the custody of or under the control of a public body but does not apply to
> (…)
> (b) a record pertaining to legal affairs that relate to the performance of the duties and functions of the Office of the Attorney General

29. The question of whether this Complaint could be made is not determined by the fact that the records are excluded under paragraph 4(b) but rather it is determined by the fact that a request was made to a public body, such as the Office of the Attorney General, and that the processing of the request is subject to the *Act*. This fundamental question lingered during the entire investigative process of this Complaint and it must be clarified.

30. Paragraph 4(b) is an exclusionary clause which removes certain records from the application of the *Act.* Paragraph 4(b) does not remove an individual's right to request information under the *Act*, nor does it remove the obligations of a public body to process the request in accordance with the *Act*, nor does it remove the individual's right to file a complaint about the response under the *Act*.

31. With respect, to take the position that in cases where records are excluded from the *Act*, a public body is no longer required to follow the *Act* is incorrect. The *Act* ensures that there is an independent review of the decision to qualify the records as excluded; otherwise, there is no way to verify that the records were properly excluded.

32. As a consequence, the decision of the Office of the Attorney General to exclude the records in question pursuant to paragraph 4(b) is reviewable.

Complaint filed with the Commissioner

33. In this case, the Applicant chose to file a complaint with the Commissioner in accordance with section 67. Section 68 makes it mandatory for the Commissioner to investigate all complaints she receives, unless she believes there is reason not to do so (as per section 69).
34. Consequently, the Applicant's Complaint involving both the Department of Justice and Consumer Affairs and the Office of the Attorney General opened the door to a review of these public bodies' decisions to refuse access to the requested records.

35. The present Report thus comes as a result of the Commissioner having investigated the Complaint.

Office of the Attorney General's Reply to the Request

36. We must first recall that the Response provided to the Applicant by the Department of Justice and Consumer Affairs indicated there were no relevant records to the Request and informed the Applicant of the right to file a complaint with the Court or the Commissioner.

We are satisfied that the format of that response complied with the requirements of the *Act.*

37. We note that the *Act* utilizes the words "reply" and "response" to signify the same thing.

38. On the other hand, we found that the Office of the Attorney General's Response to the Applicant did not comply with the requirements of the *Act*. The Office of the Attorney General did not confirm or deny the existence of the requested records, relying on paragraph 4(b).

39. As a public body, the Office of the Attorney General is required to follow all the rules, regulations, requirements and obligations of the *Act* to which all public bodies are subject. When an applicant exercises his or her right (granted by section 7) to request access to information (under section 8), public bodies, must:

    a) assist the applicant as required by section 9;
    b) identify records relevant to the request;
    c) determine which records can be disclosed;
    d) provide a response within the delay provided by section 11;
    e) provide a response the contents of which respect section 14, including to provide an explanation for information which is withheld; and,
    f) inform the applicant of his or her right to complain to the Court or to the Commissioner as per section 14.

40. The Office of the Attorney General's Response did not state whether there were relevant records, did not provide a list of the relevant records, and did not indicate which records were withheld. Furthermore, the Office of the Attorney General's reply did not inform the Applicant of a right to file a complaint with the Court or the Commissioner. The Office of the Attorney General's Response to the Applicant's Request was not in accordance with the *Act* even based on these essential requirements.

41. Further, in order for the Office of the Attorney General (or any other public body) to provide a response that refuses to confirm or deny the existence of the requested records, it must do so in conformity with subsection 14(2). Subsection 14(2) states that:

> 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 [harmful to an individual or to the public, or is in the public interest] and 29 [harmful to law enforcement or legal proceedings], 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.

42. The onus remains on the public body to substantiate why access is refused in any given access to information request matter.

43. It is important to remember that the public has an express right of access to public information which is only curtailed in a few limited and specific circumstances. While the general rule is disclosure, there are exclusionary provisions in section 4 and exceptions to disclosure in sections 17 to 33. In all these instances, the onus is on the public body to substantiate its decision to refuse access based on a particular exclusion or exception of the *Act*. That decision is reviewable. The review provisions under the *Act* give a further assurance of the public's right of access through the independent by the Court or the Commissioner which determines whether the right of access has been upheld in all cases.

44. It is appropriate at this stage to discuss the contents of a proper response to a request for access to information. Section 14 is straightforward, and it is designed to make the applicant aware of which records are relevant to the request for information, as well as which records can be released and why certain records cannot. A response must be in writing and it must directly address all aspects of the request. Section 14 makes it mandatory to inform the applicant in this way:

> 14(1) In a response under subsection 11(1), the head of the public body shall inform the applicant
>
> (a) as to whether access to the record or part of the record is granted or refused,
>
> (b) if access to the record or part of the record is granted, of the manner in which access will be given, and
>
> (c) if access to the record or part of the record is refused,
>
> (i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located;
>
> (ii) in the case of record that exists and can be located, of the reasons for the refusal and the specific provision of this Act on which the refusal is based;
>
> (iii) of the title and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal; and
>
> (iv) that the applicant has the right to file a complaint with the Commissioner about the refusal or to refer the matter to a judge of The Court of Queen's Bench of New Brunswick for review.
>
> (Emphasis added)

45. Simply put, the public body is lawfully obligated to fully answer a request for information contained in records held by the said public body.

46. For all these reasons, we find that the Office of the Attorney General's reply in this present case did not follow the requirements of section 14, and as a result, it failed to reply to the Applicant.

Duty to Assist

47. The duty to assist provision creates a positive obligation on a public body to offer assistance to an applicant in order to ensure that applicants receive timely, appropriate, and relevant responses to requests for information:

> 9 The head of a public body shall make every reasonable effort to assist an applicant, without delay, fully and in an open and accurate manner.

48. In our view, the discharge of this duty to assist applies throughout the request process up to and including the issuance of a response to an applicant, which connects well with the principle that the public body's response should be helpful and thoroughly answer the applicant's request.

49. In the present matter, the lawsuit at the heart of the requested information for legal fees was a matter of public record and it was widely reported in the media. It is therefore public knowledge that the Office of the Attorney General acted on behalf of the Department of Health in defense of the lawsuit. Given the duty to assist provision, we found it unhelpful for the Office of the Attorney General to refuse to confirm or deny to the Applicant the existence of any related records when it is apparent that some records must exist.

50. In this regard, we find that the Office of the Attorney General failed to discharge its duty to assist the Applicant.

Scope of paragraph 4(b)

51. Section 4 sets out certain records to which the *Act* does not apply, including those referenced in paragraph 4(b) pertaining to the legal affairs involving the Office of the Attorney General:

> 4 This Act applies to all records in the custody of or under the control of a public body but does not apply to

> (…)
> (b) a record pertaining to legal affairs that relate to the performance of the duties and functions of the Office of the Attorney General

52. We note that there exists an issue with the wording of paragraph 4(b) in that the English version is inconsistent with the French version. The French version provides as follows:

> 4 La présente loi s'applique à tous les documents qui relèvent d'un organisme public, sauf:
> (…)
> (b) aux documents relatifs aux contentieux relevant des devoirs et des fonctions du Cabinet du procureur général

53. The words "*documents relatifs aux contentieux*" do not have the same meaning as those found in the English version which state "a *record pertaining to legal affairs*".

54. The word *contentieux* is defined by the dictionary *Le Petit Robert 1* : "*qui est ou qui peut être l'objet d'une discussion devant les tribunaux*". In the *Collins Robert French English Dictionary*, the word *contentieux* is translated to signify "*contentious"* or "*litigation"*. The word "*contentieux*" means a matter relating to litigation, whereas the English word "*legal*" in the *Collins Robert French English Dictionary* is translated in French to mean "*légale"* or *"juridique*".

55. Litigation matters are legal matters, but not all legal matters are litigious. Only litigation matters are cases which may be brought before the courts and not all legal matters end up in litigation. For instance, a contract is a legal document, but this does not necessarily mean that the contract will become the subject of a litigation file and be part of a court case. A litigation file is a matter which is intended to be or is brought before the courts.

56. Both language versions of paragraph 4(b) therefore do not mean the same thing in that the English version signifies records relating to legal matters whereas the French version involves records relating to litigation matters. The Province's *Official Languages Act* states that both language versions of the same legislative provision are equally authoritative, and in accordance with principles of construction of statutes, this apparent conflict cannot be resolved by preferring one language version over another. Both versions must be read with a view to resolve their differences in a way which respects both.

57. In our view, the interpretation which respects both versions must be that the excluded records are those which relate to litigation rather than to legal affairs. This interpretation is in line with other provisions in the *Act* which put specific limits on the disclosure of court

proceedings records or other litigious records, and it is in keeping with how the Office of the Attorney General spoke of excluded records under paragraph 4(b) throughout our discussions.

58. As a consequence, paragraph 4(b) must be interpreted to signify that records pertaining to the litigation matters which relate to the performance of the duties and functions of the Office of the Attorney General shall be excluded from the application of the *Act*.

59. In this case, the question to be determined by the Office of the Attorney General is therefore whether the requested records regarding legal fees paid to lawyers and law firms in the lawsuit are records pertaining to the litigation matters which relate to the performance of the duties and functions of the Office of the Attorney General. Once that question has been answered, the Office of the Attorney General must provide a response to the Applicant.

60. On a final note, we can appreciate the Applicant's comments to the effect that similar requested information has been provided in the past. We reiterate that this type of information was in fact disclosed by the Office of the Attorney General under the previous *Right to Information Act* in early 2010, as evidenced by a newspaper article that stated the names of three law firms retained by the Province in the said lawsuit, as well as the total amounts spent on legal fees. In other words, the application of paragraph 4(b) results today in less access than before.

RECOMMENDATION

61. Given our findings that the Office of the Attorney General failed to reply to the Applicant's Request in accordance with the *Act*, we recommend that the Office of the Attorney General reply to the Applicant's Request in accordance with its obligations under the *Act*.

Dated at Fredericton, New Brunswick, this 15th day of July , 2011.

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Anne E. Bertrand, Q.C.
Commissioner

Appendix A

Complaint Matter: 2011-212-AP-110
July 15, 2011
Office of the Access to Information and Privacy Commissioner of New Brunswick

"Complaint Process"

January 2011

Office of the Access to Information and Privacy Commissioner of New Brunswick

Complaint Process
Right to Information and Protection of Privacy Act (chap. R-10.6)

The New Brunswick *Right to Information and Protection of Privacy Act* allows for the Access to Information and Privacy Commissioner to establish the process in investigating a complaint. In that regard, the *Act* allows the Commissioner to proceed in two ways upon the receipt of a complaint: by investigating the complaint, or by taking any appropriate steps to resolve the matter informally.

Upon a thorough analysis of the *Act*, including a strong adherence to its purpose and spirit, the Commissioner has adopted a policy to treat all complaints in the first instance by way of informal resolution. The complaint process policy is premised on the notion that it is preferable for all parties concerned to resolve complaints informally, and for both parties to become more familiar with their rights and obligations under the new legislation. Educating the public of the application of this new law is an important part of the mandate of the Commissioner's Office.

It is hoped that such a process will pave the way for improved requests for information and response procedures in the future and limit the need for the filing of complaints. The informal approach to the investigation of all complaints is intended to encourage both cooperation and transparency, all the while intending to reach a satisfactory resolution to both the public and the public body in accordance with the requirements of the *Act*.

In an informal resolution process, it is incumbent upon the Commissioner to resolve the complaint to the satisfaction of all the parties, and in a manner consistent with the purposes of the *Act*.

Below are the 6 Steps involved in the complaint investigation process.

Informal Resolution Process
Step 1 – Review

In all cases, upon receipt of a complaint, letters are issued to both the applicant and the public body indicating that the Commissioner seeks to resolve the matter informally. A deadline is initially set to try to do so within 45 days of the date of receipt of the complaint to our Office.

Although it is called an 'informal resolution process', the Commissioner's Office must review the nature of the substance of the complaint, which includes the initial request for information and the response by the public body, which are the same steps undertaken in any investigation process.

Our Office then meets with the public body's officials to review all relevant records relating to the request, and this may include requesting further information in order for us to fully understand which records may be relevant to the request. This meeting should be held shortly after the initial letter to the parties.

Informal Resolution Process
Step 2 – Preliminary Findings

Where the Commissioner is satisfied that the public body has made an adequate search and has identified and provided to the Commissioner all records relevant to the request for information, our Office then examines the initial response given by the public body against all records now provided in order to determine if the initial response conforms to the requirements of the *Act*.

The Commissioner communicates her preliminary findings in writing to the public body by letter, with a suggestion that a 'revised response' to the applicant's request for information be considered, if necessary. If a revised response is not required, the complaint process proceeds to Step 4.

The suggestion to consider a revised response is made with the continued intent of resolving the complaint informally.

In the event the public body chooses to proceed by proposing a revised response, a timeline during which the 'proposed revised response' must be submitted to the Commissioner is set based on the complexity of the work involved to prepare the proposed revised response. In most cases, and depending upon the complexity of the matter, it is hoped that the proposed revised response can be submitted to the Commissioner within 30 days of the date of receipt of the complaint.

Informal Resolution Process
Step 3 – Proposed Revised Response

In the event the public body chooses to provide the Commissioner with a proposed revised response, the Commissioner reviews the proposed revised response to ensure that it also meets the requirements of the *Act*. If the proposed revised response meets the requirements of the law, the Commissioner invites the public body to submit it to the applicant as a revised response, i.e., as a revised response in answer to the applicant's initial request for information.

If the proposed revised response does not meet the requirements of the law, the Commissioner will provide additional comments to the public body. It is important to note that it is not for the Commissioner to prepare nor to provide a revised response, but rather to assist the public body in its obligations under the *Act* to encourage the public body to provide a lawful response to the request for access.

Informal Resolution Process
Step 4 – Applicant's Comments

If the public body has provided and is prepared to issue a revised response which honors its obligations under the *Act*, the Commissioner issues letters to both parties indicating that a revised response will be submitted to the applicant. The public body issues the revised response directly to the applicant. In her letters to the parties, the Commissioner invites the applicant to review the revised response which he or

she will receive from the public body, and to provide comments regarding the revised response to the Commissioner. The applicant is usually accorded a period of 10 days within which to do so, depending on the complexity of the revised response. The Commissioner then reviews the applicant's comments on the revised response.

Or, in the event that a revised response was not required, the Commissioner issues letters to both parties informing them that the initial response to the request for information was appropriate and in conformity with the *Act.* In her letters to the parties in such a case, the Commissioner invites the applicant to provide comments to the Commissioner as to why he or she is of the view that the initial response to the request was inappropriate. The applicant is usually accorded a period of 10 days within which to do so, depending on the complexity of the matter. The Commissioner then reviews the applicant's comments.

If the culmination of these steps in the informal resolution process to date have gone beyond the initial 45 day timeframe allotted, our Office may decide to continue with the informal resolution process if there is a belief that a satisfactory resolution in accordance with the *Act* is possible.

Again, it is important to reiterate that our complaint process policy is premised on the notion that it is preferable for all parties concerned to resolve complaints informally. In this regard, both parties will become more familiar with their rights and obligations which will lead to improved requests for information and response mechanisms in the future.

Informal Resolution Process
Step 5 – Revised Response Satisfactory to Both Parties

In the event the applicant is satisfied with the revised response, or that the applicant provides comments which indicate that he or she is satisfied with the Commissioner's preliminary findings that the initial response is in accordance with the *Act*, the Commissioner concludes her investigation. This conclusion of the matter is confirmed by letters to both parties stating that the complaint has been resolved informally to the satisfaction of both parties.

In such an instance, there is no requirement for the Commissioner to file a formal report as there is no recommendation to be made to the public body on its response (revised or initial) to the request for information.

Informal Resolution Process – Formal Investigation
Step 6 – Revised Response Not Satisfactory to Both Parties

In the event the applicant is not satisfied with the revised response, and upon reviewing the comments obtained from the applicant, the Commissioner may decide to further investigate the matter. This step brings the informal resolution process to an end and converts the matter into a formal investigation process.

At the conclusion of the further investigation, if any, the Commissioner renders her findings and any recommendations in a formal report which is issued to both parties. The report will also be made available to the public on the Commissioner's Office website after de-identification (website has not yet been created).