



*Tabled by the Minister
of Digital Government +
Service NL 2023-04-05*

Government of Newfoundland and Labrador
Digital Government and Service NL
Office of the Minister

March 29, 2023

Michael Harvey
Information and Privacy Commissioner

Dear Commissioner Harvey:

I write in relation to the news release issued by your office on 22 March 2023, related to Bill 22, An Act to Amend the **Management of Information Act** and the **House of Assembly Accountability, Integrity and Administration Act**.

Contrary to your public statement, Bill 22 does not exempt records related to the Cabinet decision-making process from the duty to document proposed legislation. Section 3 of the Act currently provides that the Act applies to all public bodies. Bill 22 would not change the applicability of the Act to public bodies, with the exception of removing the House of Assembly from the Management of Information Act. However the same obligations will now be incorporated through the **House of Assembly Accountability, Integrity and Administration Act**. This approach respects the separation of powers between the executive and legislative branches of government.

The Office of the Executive Council, which includes Cabinet Secretariat, is currently and would continue to be a public body subject to the provisions of the Act. Section 8 of the Bill adds to the existing requirement for a permanent head of a public body to develop, implement and maintain a records and information management system and creates the 'duty to document' obligation. The provisions apply to the Cabinet decision-making process, and the Clerk of the Executive Council will have the responsibility to ensure compliance with this section.

The existing section 5.4 of the **Management of Information Act** provides that "Cabinet records shall be managed in the manner determined by Cabinet Secretariat". There is no change to this provision. This provision refers to the management of Cabinet records, not their creation, and clearly does not create a broad exception to the Act itself.

I also wish to address the comment in the news release that appears to question the objectivity of public servants. It is inappropriate to suggest that a public servant, such as the Chief Information Officer, would disregard their statutory obligations due to the manner of their appointment, or the fact that they serve at the pleasure of the Premier



and report to a Minister. Accountability to the House of Assembly is a pillar of our democratic system; Ministers are accountable to the public through the House of Assembly, not statutory offices. To suggest that Ministers and officials need oversight because the reporting processes of the House of Assembly "receive little attention", minimizes the value and role of the House of Assembly and its members.

Sincerely,

A handwritten signature in black ink that reads "Sarah Stoodley".

HON. SARAH STOODLEY, MHA
District of Mount Scio
Minister Responsible for the
Office of the Chief Information Officer