



**The Department of Health and Social Services**

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Okoa Kavamat Monakhikakvilikiot Olasilikiot

Ministère de la Santé et des Services Sociaux

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**JUN 08 2005**

May 27, 2005

DH&SS File No: 2004-09

Information & Privacy Commissioner File No: 05-122-5

Information and Privacy Commissioner

5018 - 47<sup>th</sup> Street

PO Box 262

Yellowknife, NT

X1A 2N2

**Re: Response Issued by the Department of Health and Social Services to** [Redacted]  
**regarding his Request for Review**

Dear Ms. Keenan Bengts:

Please find enclosed the Department of Health and Social Service’s response to [Redacted]  
[Redacted] regarding your review of the Department’s decision not to release the report titled, *Practice Management Consulting Report*.

Sincerely,

Bernie Blais  
Deputy Minister  
Department of Health and Social Services  
Government of Nunavut



The Department of Health and Social Services

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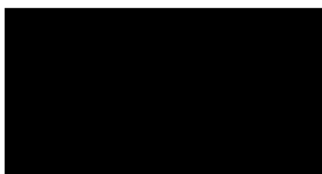
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May 27, 2005

DH&SS File No: 2004-09

Information & Privacy Commissioner File No: 05-122-5



**Re: Information and Privacy Commissioner's Recommendations Regarding Applicant's Request for Review**

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Dear 

This letter is in response to the written report issued to the Department of Health and Social Services by the Information and Privacy Commissioner of Nunavut regarding your request for review of the Department's decision not to release the Practice Management Consulting Report.

The Department has examined the Commissioner's feedback extensively and has granted much thought to the recommendations put forward in the Commissioner's report. The Department's review of these recommendations has served as a valuable learning experience, enabling the Department to gain a better understanding of the applicability of the ATIPP Act, particularly Section 14(1)a, with respect to the release of documents/reports devised for internal purposes.

The chief issue being reviewed in this instance is the Department's blanket refusal to release the Practice Management Consulting Report. The Commissioner's report clearly states that in her opinion the entire document in question does not qualify as "advice or recommendations" under Section 14(1)a of the ATIPP Act. As a result, the Commissioner did not agree with the Department's decision to refuse access to the entire document.

In light of the comments and supporting rationale contained in the Commissioner's report, the Department has reassessed its decision to apply Section 14(1)a to the entire

document. As a result of this reexamination, the Department agrees that Section 14(1)a should not have been applied to the document in its entirety and therefore, the Department agrees with the recommendations put forward in the Commissioner's report.

In an effort to outline the Department's decision regarding the Commissioner's recommendations in an organized manner, I will address each recommendation outlined on page 11 of the Commissioner's report and provide the Department's response to each item.

***(a) Pages 1 through 6 and the top part of page 7 of the Report (which includes the title page and the index) contain no advice or recommendations and should be disclosed to the Applicant.***

- As previously noted, the Commissioner's comments and supporting rationale have provided strong grounds for the Department to reevaluate its decision regarding your ATIPP application. This has resulted in the Department reexamining the content of the aforementioned pages and the applicability of Section 14(1)a of the ATIPP Act. Our reexamination has allowed the Department to conclude that the content contained in pages 1-6 and the top of page 7 does not constitute "advice or recommendations" under this section of the ATIPP Act. In essence, much of the information contained in these pages can be described as background information and/or information which establishes the context upon which the report was based. Therefore, the Department agrees with the Commissioner's assessment and will release pages 1 through 6 and the top of page 7.

***(b) The bottom part of page 7 and pages 8 through 11 are "advice or recommendations" and are, therefore, subject to the discretionary exemption provided by section 14(1)(a).***

- The Department adheres to its decision to apply Section 14(1)a of the ATIPP Act and therefore, will not be releasing the aforementioned pages.
- The Department agrees with the Commissioner's assessment of the content contained on the bottom of page 7 of the report. While it is correct to state that the information contained on this page cannot strictly be considered "advice or recommendations", it is also fair to state that one can readily infer the "advice or recommendations" that would result from identifying the information contained in this section. Moreover, as the Commissioner indicates, the information contained on the bottom of page 7 clearly projects "advice and recommendations" that appear elsewhere in the report. The Department agrees with this assessment.
- Pages 8-11 present recommendation-based information in summary form, which, as indicated in the Commissioner's report, undoubtedly constitute "advice and recommendations". As a result, the Department will adhere to its decision to apply Section 14(1)a of the ATIPP Act to these pages.

***(c) Pages 12-71 are “advice or recommendations” and are, therefore, subject to the discretionary exemption provided by section 14(1)a.***

- The Department adheres to its decision to apply Section 14(1)a of the ATIPP Act and therefore, will not be releasing the aforementioned pages.
- As indicated in the Commissioner’s report, it is evident that the *Recommendations, Key Benefits of Recommendations, Key Implementation Steps, Budget Guideline, Priority and Timeline* sections of this report clearly constitute “advice and recommendations”. Bearing this in mind and bearing in mind the purpose behind the development of this report, the Department will adhere to its decision and will not release these sections of the report pursuant to Section 14(1)a of the ATIPP Act.
- Similar to the information contained on the bottom of page 7, the *Observations* section(s) found throughout pages 12-71 contains the type of information that would easily allow one to infer the nature of the “advice or recommendations” contained in the other sections of these pages. However, as the Commissioner noted, not all observations would readily lead to such inferences. Nevertheless, the Department agrees with the Commissioner’s opinion that it would be difficult at best to try to sever the parts of the *Observations* sections that do not project recommendations from the ones that do. As a result, the Department will adhere to its decision and will not release the *Observations* section(s) of the report pursuant to Section 14(1)a of the ATIPP Act.

***(d) The first two paragraphs on page 72 are not “advice or recommendations” and should, therefore be disclosed to the Applicant.***

- The Department’s reexamination the content of the first two paragraphs on page 72 has allowed the Department to conclude that the information does not constitute “advice or recommendations” under Section 14(1)a of the ATIPP Act. In essence, much of the information contained in paragraph one is, as the Commissioner indicates, factual background information. While paragraph two, is a mixture of background and general “theory-based” information regarding recruitment and retention. As a result of this reexamination, the Department agrees with the Commissioner’s assessment and will release the first two paragraphs of page 72.

***(e) The balance of page 72 and pages 73 to 76 are “advice or recommendations” and are, therefore, subject to the discretionary exemption provided by section 14(1)a.***

- The Department adheres to its decision to apply Section 14(1)a of the ATIPP Act and therefore, will not be releasing the aforementioned pages.
- As indicated in the Commissioner’s report, the balance of page 72 and pages 73 to 76 contain a summary of advice and recommendations found throughout the report. Therefore, these pages clearly fall under Section 14(1)a of the ATIPP Act and will not be released.

*(f) The three Appendices to the report constitute “advice or recommendation” and are, therefore, subject to the discretionary exemption provided by section 14(1)a.*

- The Department adheres to its decision to apply Section 14(1)a of the ATIPP Act and therefore, will not be releasing the three appendices to the report.
- The three appendices contained in the report clearly reflect the recommendations made throughout the report and therefore, the Department has decided that these appendices fall under Section 14(1)a of the ATIPP Act.

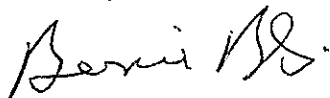
I would like to reiterate the Department’s position regarding the nature of the document in question. As stated in earlier correspondence with both yourself and the Commissioner, the objective of the development of this document was to create an internal tool to aid management in improving hospital function and efficiency. As a result, the document that was produced was intended for a specific audience and for a very specific purpose. Therefore, while the Department has determined that a small portion of this document can be released, we still feel that due to the nature and intent of the document, the majority of the report is protected from disclosure under Section 14(1)a of the ATIPP Act.

Public accountability and transparency are important to our Department, as is our ability to conduct the business of government in a manner that allows us to foster improvement and strive towards excellence. In reexamining our decision regarding your application, the Department has asked many, if not all, of the questions outlined in the Commissioner’s report and we have tried to strike a better balance between the Department’s need to protect information developed for internal purposes and our need to uphold the provisions and the spirit of the ATIPP Act. We feel that our decision to implement the recommendations put forward by the Commissioner has enabled the Department to better achieve this balance.

We trust the Department’s decisions regarding this matter will be to your satisfaction.

The records the Department has agreed to release have been enclosed for your review and are labeled pages 1-8.

Sincerely,



Bernie Blais  
Deputy Minister  
Department of Health and Social Services  
Government of Nunavut