

FAMILY CROWN SERVICES OPERATIONAL MANUAL

REQUEST FOR INFORMATION	New	Office of the Attorney General / Family Crown Services	Policy 15
Policy Title	New or Amended	Division / Branch / Section	Policy #

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REQUESTS FOR INFORMATION

1. Introduction

The purpose of the *Right to Information and Protection of Privacy Act* (RTIPPA) is to allow any person a right of access to records in the custody or under the control of New Brunswick public bodies, subject to the limited and specific exceptions set out in RTIPPA and in the *Family Services Act*.

It is to be noted that Section 11.3 of the *Family Services Act* creates an express exemption from the application of the *Right to Information and Protection of Privacy Act*:

11.3 If a provision of this Act is inconsistent with or in conflict with a provision of the *Right to Information and Protection of Privacy Act*, this Act prevails.

Normally, a request made pursuant to RTIPPA for access to a record in the custody or under the control of the Office of the Attorney General is addressed directly to the Attorney General and is not received by an employee of Family Crown Services. RTIPPA does not specify to whom within a public body a request for access to a record must be directed. It is therefore possible that a person may direct a request for access to a record directly to an employee of Family Crown Services.

This Policy does not apply to the general disclosure obligation in child and adult protection matters or the release of information in the course of court proceedings. In other words, disclosure can only be requested to make “full answer and defence” during the course of court proceedings and cannot be requested under RTIPPA. Further, it does not apply where a child protection or adult protection proceeding has concluded and a party requests such information for any other purpose.

It should also be noted that any request for confidential information made in the absence of an active court proceeding regarding a child protection or adult protection matter should be directed to the Minister of Social Development for a response in accordance with Section 4 of *Regulation 81-132* of the *Family Services Act*.

1.1 Application of the Act to the Office of the Attorney General

RTIPPA specifies that it does not apply to a record pertaining to legal affairs that relates to the performance of the duties and functions of the Office of the Attorney General.

RTIPPA also permits the Attorney General to refuse to disclose the following:

- (a) information that is subject to solicitor-client privilege;
- (b) information prepared by or for an agent or lawyer of the Office of the Attorney General in relation to a matter involving the provision of legal advice or legal services or in relation to the investigation or prosecution of an offence; and
- (c) information in a communication between an agent or lawyer of the Office of the Attorney General and any other person in relation to a matter involving the provision of legal advice or legal services or in relation to the investigation or prosecution of an offence.

1.2 Time limit prescribed by RTIPPA

RTIPPA prescribes the time within which the Attorney General shall respond to a request for access to a record. Normally, the time limit is thirty (30) days. RTIPPA stipulates that the failure of the Attorney General to respond to a request within the time limit prescribed by RTIPPA is deemed to be a refusal to provide the record requested. Where access to a record is, or is deemed to be, refused, the applicant may file a complaint with the Access to Information and Privacy Commissioner.

2. Statement of the policy

2.1 Employees shall refer RTIPPA requests to the Assistant Deputy Attorney General

Where a request for access to a record in the custody or under the control of Family Crown Services is received by an employee, the employee shall immediately refer the request to the Assistant Deputy Attorney General of Family Crown Services.

The Assistant Deputy Attorney General will normally refer the request to the Office of the Attorney General.

2.2 Timeliness of referral to the Assistant Deputy Attorney General

Employees are reminded of the thirty (30) day time limit prescribed by RTIPPA within which the Attorney General must respond to most requests. Because of the time limit, an employee who receives a request under RTIPPA must immediately refer the request to the Assistant Deputy Attorney General.

3. Related documents

Right to Information and Protection of Privacy Act, S.N.B. 2009, c. R-10.6
Family Services Act, S.N.B. 1980, c. F-2.2
Regulation 81-132, Family Services Act, S.N.B. 1980, c. F-2.2