

From: Toby Mendel [REDACTED]
Sent: February 26, 2025 7:12 AM
To: Office of the Legislative Counsel
Subject: Nova Scotia: Amendments Would Undermine Access to Information Act

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For the attention of the Law Amendments Committee:

I am writing to you to forward the Note the Centre for Law and Democracy (CLD) has prepared on the access to information elements in Bill No. 1.

You may not be aware of CLD, which is based in Nova Scotia, because most of our work is international, but we are one of the world's leading human rights organisations focusing on access to information issues. Among other things, we run the [RTI Rating](#), a sophisticated methodology for assessing the strength of legal frameworks for access to information, which has been recognised by actors such as the World Bank and Millennium Challenge Corporation, and we developed the leading [UNESCO online course](#) on access to information.

We very much welcome the decision by the Government of Nova Scotia to withdraw the proposed amendments to the Auditor General Act, some of which we criticise in our Note.

But if the amendments to the Freedom of Information and Protection of Privacy (FOIPOP) Act and Municipal Government Act are retained, we call on this Committee to amend them in line with the recommendations in our Note. We support a rule on rejecting vexatious requests but the scope of this has to be defined narrowly and appropriately and the procedure for applying this needs to reflect better practice, as found in the large majority of all jurisdictions in Canada, whereby advance approval of the oversight body (the Commissioner) is needed.

We encourage you to read our Note and we would be happy to discuss the issues we raise further with you, including in an effort to come up with better language around some of these provisions.

Very best wishes, Toby

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21 February 2025

Nova Scotia: Amendments Would Undermine Access to Information Act

The Centre for Law and Democracy (CLD) today released its analysis of the impact on access to information of the omnibus Bill No. 1, An Act Respecting Government Organization and Administration, tabled in parliament earlier this week by the Government of Nova Scotia, Canada. The analysis shows that despite claims by the government that the amendments “address long-standing inefficiencies” in the local access to information legislation, in fact they mostly give the government greater control over requests for information and the release of key reports by the Auditor General.

“It is extremely disappointing that a government which originally came into office promising positive reforms to the local access law is in fact seeking to obstruct access,” said Toby Mendel, Executive Director of CLD. “The Progressive Conservatives won a super-majority in the November 2024 elections and, in such circumstances, it is incumbent upon them to show the greatest respect for democratic checks and balances, including access to information and the office of the Auditor General, instead of trying to hobble them.”

CLD has serious concerns with most of the proposed amendments as they impact access to information, of which the most important are:

- Unnecessarily requiring more specific details about the information being sought in a request for information, which could be abused by officials.
- Granting public bodies broad, discretionary powers to “disregard” requests for information, and not limiting this to “vexatious” requests or requiring the prior approval of the Information and Privacy Commissioner, as better practice jurisdictions do.

- Giving the Attorney General, who is also the Minister of Justice, conclusive power to declare certain information as being subject to solicitor-client privilege.
- Giving ministers the power to block the public release of reports by the Auditor General on the vague grounds that this is “in the public interest”.

The analysis is available [here](#) and the Bill is available [here](#).

For further information, please contact:

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