

**Review and Streamlining of the  
Office of the Information Commissioner's  
Complaints Handling Process**

**- Final Report -**

**Submitted to:**

Office of the Information Commissioner of Canada

**Submitted by:**

Performance Management Network Inc.

**January 29, 2008**

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## **1.0 Introduction**

The *Access to Information Act* (ATIA) was adopted in 1983. It provides for the right of Canadian citizens, whether or not they reside in Canada, along with all individuals present in Canada to request and gain access to any record under the control of a federal institution subject to limited and specific exceptions. The Office of the Information Commissioner (OIC) receives and investigates complaints from people who believe they have been denied rights under Canada's freedom of information legislation.

A number of factors have contributed to growing pressures on investigative resources within the Office of the Information Commissioner (OIC). The OIC handles an average of 1,320 complaints per year and has been in a serious backlog situation for some time. With the recent enactment of the *Federal Accountability Act*, 70 additional organizations will be subject to the provisions of the ATIA, bringing the total to 250 institutions. This represents a 37% increase in less than one year of the number of institutions that are now subject to ATIA. The OIC has reported that the number of complaints continues to increase: in the first six months of FY 2007-08, complaints have almost doubled from this time last year (880 compared with 472 the previous year); of the 1,980 total number of cases, 1,640 are in backlog.

The OIC has identified a need to improve the way it delivers services to complainants and institutions. To this end, OIC has developed a backlog strategy which is comprised of 11 components. The purpose of this study is to address three elements of the strategy by reviewing the current complaints handling process and identifying opportunities for streamlining and improvements, assessing the benefits of an intake and early resolution function and assessing the appropriateness of the current service standards.

This report is organized as follows:

- < **Section 2** provides an overview of the methodology used for conducting the review.
- < **Section 3** provides key findings and discusses a number of suggestions for streamlining the investigative process, an intake and early resolution function, and assessing the appropriateness of existing service standards.
- < **Section 4** includes conclusions and recommendations for streamlining the OIC's complaints handling process.

A list of documents reviewed is provided in **Annex A**. A list of interviewees and focus group participants is provided in **Annex B**. An approach for the developing Service Standards is provided in **Annex C**.

## **2.0 Methodology**

The objectives of this study are to:

- < review the current complaints handling process and identify opportunities for streamlining and improvement;
- < examine the benefits of an intake and early resolution function; and
- < assess the appropriateness of existing service standards.

The scope of this study was limited to the informal investigative process (as defined by steps 1 to 37 in the Administrative Procedures Manual).

The methodologies for conducting this progress review include:

- < **A review of internal and external documents** including: administrative policies and procedures, process flow charts, suggestions from internal Backlog Strategy working group, annual reports, workload statistics, organization charts, job descriptions, as well as documentation from external organizations such as Information and Privacy Commissioners representing Ontario, British Columbia, Alberta and Manitoba.
- < **Focus group sessions** with investigative staff, intermediate management and representatives from the ATIP community.
- < **In-depth interviews** conducted with representatives of the Information and Privacy Commission of Ontario (IPC), Treasury Board Secretariat – Chief Information Officer Branch, Commission for Public Complaints (CPC) against the RCMP and the Privacy Commissioner of Canada. In addition, interviews were conducted with the Assistant Commissioner and key staff within Complaints Resolution and Compliance. The Commissioner, Assistant Commissioner Policy, Communications and Operations and General Counsel were also consulted.

### **3.0 Observations and Suggestions for Improvement**

In 2007, the OIC began a renewal process with a focus on improved service delivery and accountability to Canadians, government institutions and Parliament. The OIC has a statutory mandate to ensure that the rights and obligations of complainants under the ATIA are respected, that complainants, heads of government institutions and all third parties affected by complaints are given a reasonable opportunity to make representations. In the *2006-07 OIC Annual Report*, the Commissioner pledged to “assist governments to do better, and requesters to fare better, when administering and using the *Act*.”<sup>1</sup> In order to achieve optimal compliance with the *Act* and fulfill its mandate, the OIC is adopting an investigative approach based on the “three C’s”: collaboration, cooperation and consultation. As a result, the OIC would like to increase its emphasis on alternative methods of dispute resolution such as mediation and persuasion, in addition to the use of more formalized methods of compliance and review during investigations when required.<sup>2</sup>

The general consensus from OIC staff and external stakeholders is that there are a number of bottlenecks throughout OIC’s current complaints handling process that are adversely affecting service delivery and timeliness. Some factors such as internal file management processes and assignment of cases are within the direct control of OIC, while others such as waiting for information or meetings with institutions are not.

A review of statistics provided in the *2006-2007 OIC Annual Report* (Chapter III) shows that approximately 65% of complaints are administrative (delays, extensions, fees, miscellaneous), while 35% are refusals (exemptions, exclusions, missing records, Cabinet confidences). As a general rule of thumb, refusal cases take on average four times as much investigative time to resolve than administrative cases.

As discussed in the following sections of this report, a number of opportunities have been identified for improving OIC’s overall approach to handling complaints.

#### **3.1 Streamlining the Investigative Process**

##### *Suggestions for Streamlining the OIC’s Informal Investigative Process*

The following chart provides a summary of the suggestions provided by focus group participants from within the OIC. The suggestions identified below are based on input

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<sup>1</sup> Annual Report Information Commissioner 2006-2007 (Chapter 1: The Year in Review – Changing the Guard).

<sup>2</sup> Riley Information Service Seminar – Access to Information: The Next Challenges. Keynote Address of Robert Marleau, Information Commissioner of Canada, Ottawa, Canada. (2007-9-24).

provided using a facilitated brainstorming approach; as such they have not been prioritized or examined for feasibility of implementation.

<b>Investigative Phase</b>	<b>Suggestions from OIC Investigators and Intermediate Management</b>
<b>Complaint Intake</b>	<ul style="list-style-type: none"> <li>• Dedicate more resources to the intake function.</li> <li>• Utilize experienced staff with appropriate level of expertise to perform triage process for categorizing files / complaints.</li> <li>• Ensure that a detailed rationale from institutions is provided.</li> <li>• Use e-mail to send notifications to institutions.</li> <li>• New intake unit should check for previous complaints on files.</li> <li>• Concern expressed that investigators might miss the opportunity to establish initial contact with the institution</li> <li>• Need to determine if the summary of complaint could be prepared at the intake stage before file is assigned to investigator.</li> </ul>
<b>Informal Investigation</b>	<ul style="list-style-type: none"> <li>• Where possible and appropriate, have departments prepare files with supporting documentation rather than having investigators go to institutions to make photocopies. It was noted that there are circumstances, such as exemptions, where it is important for the investigator to do the photocopying.</li> <li>• Develop tool kits and/or standardized checklists to better communicate and explain the types of information required by the OIC's investigative process. Some preliminary work has been started in this area with the development of information pamphlets (Exercise of Discretion, Mandatory Exemptions, Section 21, Subsections 16(1) and 16(2), Subsection 24(1)) which are currently in draft form.</li> <li>• Provide greater access to administrative support staff (e.g., for closing off of files, photocopying, etc.).</li> <li>• Review the Investigator's Plan as some like it and others find it redundant.</li> <li>• Identify ways of streamlining Investigative Reports. This is being looked at by the Committee. There was a suggestion that the Report of Finding serves the same purpose of the Investigative Report on administrative files.</li> <li>• Make changes to IIA system so investigators have the ability to search active files. This would help in dealing with situations where a complaint on a file is resolved and a month later a new complaint on the same file comes in.</li> <li>• Request detailed rationale from institutions in "heads up" letter.</li> <li>• Assess usefulness of GRIDS in current format as concern was expressed that they are too complex for departments to understand.</li> <li>• Develop standard macros for Letters and Report of Findings.</li> <li>• Cap number of files assigned for exemptions at 20. It is easier to handle a higher number of administrative files.</li> <li>• Establish guidelines related to keeping information on CD rather than printing excessive amounts of paper.</li> </ul>

<b>Investigative Phase</b>	<b>Suggestions from OIC Investigators and Intermediate Management</b>
<b>Management Review</b>	<ul style="list-style-type: none"> <li>• Develop a system for flagging files so management knows which ones they can go through quickly. It would be beneficial if there were some sort of triage done on files awaiting management review (e.g., pre Section 35, Section 35 Letter). A colour coding system was suggested to indicate type of file, age of file and urgency.</li> <li>• Some staff questioned why if no changes were made to a letter by senior management it still comes back to investigator to initial.</li> <li>• Management should input documented events into the system if they talk to parties involved in an investigation.</li> <li>• Need to track changes and save versions along the way.</li> <li>• Management should set aside a certain block of time each week for file review.</li> <li>• Ensure staff has the appropriate level of access to Chiefs for support and guidance on files.</li> <li>• Seek ways to shorten Investigative Reports.</li> </ul>
<b>Report Finding and Close File</b>	<ul style="list-style-type: none"> <li>• Focus group participants indicated that the biggest bottleneck occurs on the sign-offs related to exemptions.</li> <li>• Continue to pursue opportunities for more delegated authority for signing off on files.</li> <li>• Increase the level of administrative support for closing files.</li> <li>• The rationale for giving complainants one more chance for making a representation at the end of the process was questioned.</li> </ul>
<b>Other</b>	<ul style="list-style-type: none"> <li>• Reduce the number of files assigned to investigators. When the inventory is too large investigative staff feels overwhelmed resulting in increased stress levels and reduced job satisfaction.</li> <li>• Review the file numbering system. Some investigators indicated that having a file number and complaint number can cause confusion when responding to inquiries.</li> <li>• Develop records management policy for disposal of files.</li> <li>• Reinstigate library services function to provide support to investigators.</li> <li>• Update and maintain intranet with current information.</li> <li>• Expand learning plans to cover all government training courses.</li> <li>• Identify training needs with respect to writing skills of investigators.</li> <li>• Develop multiple user policy to fairly handle situations where one individual might issue over 100 complaints at once. This puts undue strain on resources.</li> <li>• Provide access to Internet at investigator's personal computers and provide training on effective search techniques.</li> <li>• Develop guidelines with respect to what can be communicated in writing, particularly with respect to e-mails.</li> <li>• Legal should provide summaries of court decisions as they occur to ensure investigative staff is properly informed.</li> <li>• Update drop-down list of documents on IIA.</li> <li>• Streamline and update contact lists.</li> <li>• Maintain up-to-date list of head of institutions (e.g., Solicitor General is head of CSIS).</li> <li>• Provide tools such as electronic dictionary on desk top computers and <i>Antidote</i> (CD Rom in French).</li> <li>• Process for getting legal advice is too long. Suggestion to dedicate some legal staff resources to providing assistance to investigative staff.</li> <li>• Clarify roles and responsibilities of Chiefs and consider opportunities for team building.</li> </ul>

*Suggestions from ATIP Community and Treasury Board*

The following chart provides a summary of suggestions provided by representatives from within the ATIP community as well as TBS. Members of the ATIP community participated in a facilitated focus group, while three representatives from TBS participated in a group interview.

<b>Suggestions from ATIP Community and Treasury Board Secretariat</b>
<p><u><i>Intake and Early Resolution</i></u></p> <ul style="list-style-type: none"> <li>• Agreement that a streamlined intake function with possibility of early resolution of complaints would be a welcome improvement. Suggestion that staff in this unit will need to possess the necessary skills and experience to understand the <i>Act</i> and what constitutes a valid complaint.</li> <li>• Suggestion that there are opportunities for OIC to fast track certain cases (e.g., when a complaint of delay has already been resolved by the institution).</li> <li>• Complainants should be contacted immediately to clarify the specifics of the complaint and to verify if the individual still wants to pursue it.</li> <li>• Suggestion that OIC should find opportunities to use mediation before launching into the investigative process.</li> </ul>
<p><u><i>Portfolio Approach</i></u></p> <ul style="list-style-type: none"> <li>• Implement a portfolio approach in assigning files to investigators so each institution is dealing with a smaller number of staff who would be more familiar with the work and type of records held by each department and agency.</li> </ul>
<p><u><i>Communications</i></u></p> <ul style="list-style-type: none"> <li>• OIC should use e-mail to help with communications (e.g., scheduling meetings, clarifying information needs). Investigators sometimes come to departments when a phone call or e-mail would have been sufficient.</li> <li>• Suggestion that ‘heads-up’ concept is redundant and that sending a fax is not a good way of alerting the institution that a complaint has been received.</li> <li>• OIC should provide institutions with a current list of complaints on either a monthly or quarterly basis.</li> <li>• If complaint is caused by an Office of Primary Interest (OPI) then they have to be interviewed. OIC should provide a list of questions to be discussed with OPI (e.g., tell us specifically which exemptions they are concerned with out of the whole list of exemptions).</li> <li>• GRIDS are helpful but would be more useful to drill down and provide a summary of questions to ask.</li> <li>• Would be helpful if OIC could provide a checklist of what information is needed. The checklist should clearly delineate what issues we need to discuss.</li> <li>• When notification of a complaint is sent to a department, it should specify reasons for complaint.</li> </ul>
<p><u><i>Jurisprudence</i></u></p> <ul style="list-style-type: none"> <li>• Observation was made that sometimes investigators are not up to date with current case law which can result in more time being spent on the file.</li> </ul>

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<b>Suggestions from ATIP Community and Treasury Board Secretariat</b>
<p><u>Resource Shortage</u></p> <ul style="list-style-type: none"><li>• Recognition needs to be given to the shortage of skilled resources within the ATIP community in general. Complaints increase because institutions need time extensions, thereby increasing the workload for OIC as well.</li><li>• OIC needs to be more reasonable with respect to things like action plans and recognize that ATIP Coordinators don't necessarily control time elements.</li></ul>
<p><u>Preparation of Documents</u></p> <ul style="list-style-type: none"><li>• Institutions would like to prepare and send the documents to OIC.</li></ul>
<p><u>Cabinet Documents</u></p> <ul style="list-style-type: none"><li>• The issue of Cabinet documents and the Privy Council Office (PCO) is an area of concern as OIC treats as two complaints. Clarification on what constitutes a Cabinet document is required.</li></ul>
<p><u>Definitions</u></p> <ul style="list-style-type: none"><li>• Suggestion that OIC should review its terminology (e.g., the term <i>resolved</i> means too many different things).</li></ul>
<p><u>Professionalism</u></p> <ul style="list-style-type: none"><li>• Some concerns expressed with respect to inconsistency of approach amongst OIC investigators. Some concerns that investigators tend to go beyond the scope of the complaint and move into other issues. OIC should maintain an independent and impartial role.</li><li>• Would like to see more consistency in approach between different investigators. A more collaborative approach would be welcomed.</li></ul>
<p><u>Collaboration</u></p> <ul style="list-style-type: none"><li>• Representatives from Treasury Board and the ATIP community were very pleased to see that the OIC has consulted with them in examining its approach to complaints handling process. A strong willingness to support the OIC in communicating changes within the ATIP community was evident. It was suggested that the OIC could make special presentations at ATIP conferences, incorporate information on procedural changes into information seminars and training materials, etc.</li><li>• Suggestion that ATIP community would benefit from more opportunities for sharing on best practices (e.g., more use of templates, checklists, etc.).</li><li>• Report Card system has created problems particularly with respect to complaints related to decisions on Cabinet Documents. Given that PCO has decision making authority in this situation, the status of these files needs to be reported separately. Suggestion that Report Cards should place more emphasis on quality.</li></ul>

### **3.2 Intake and Early Resolution Function**

#### *What do we mean by an Intake and Early Resolution Function?*

The term Intake and Early Resolution Function refers to a dedicated organizational unit with a combination of administrative and investigative staff or analysts.

In Ontario, this unit is generally referred to as the Registrar's Office. The Registrar is supported by a team of seven Intake Analysts who perform triage and stream files by type and complexity. An Assistant Registrar is responsible for supervision and management of six administrative support staff who respond to inquiries, handle mail, open files, collect missing information, and prepare files for investigative staff. The Intake Analysts (Ontario) or Early Intervention Officers (BC) attempt to reach early resolution to complaints by speaking with the complainant and institution involved. In Ontario, 25% of files are resolved at this stage. Unresolved cases are streamed to either a mediation stage or adjudication. Over 50% of cases are resolved through mediation. In Ontario, the staff title is Mediator / Investigator. The mediation process is designed to assist the parties in coming to a resolution of their dispute. If the matter cannot be settled it is referred to the adjudication stage where a final decision will be rendered.

In Ontario, the organization is structured into teams or branches that reflect different stages of the process:

- Intake (Registrar, seven Intake Analysts, Assistant Registrar and six Program Assistants).
- Mediation (Manager, two Team Leaders and 13 Mediators)
- Adjudication (Manager, Senior Adjudicator, Team Leader, eight Adjudicators and one support staff.

In BC, intake and early resolution activities are combined within an organizational unit with a Manager, three Intake Officers, an Early Intervention Officer, one Investigator and a Receptionist. In Manitoba and Alberta, the intake function has approximately one management position, a few analysts and receptionist. The CPC also has a combination of administrative and investigative staff within its intake unit.

The Privacy Commissioner is faced with similar issues and has also examined various options for streamlining the complaints handling process. They are about to implement an intake unit and a triage process for filtering complaints by complexity with the aim of resolving as many complaints as early as possible. It is predicted that low complexity complaints will be resolved early. Files categorized as medium or high complexity will

be filtered to a mediation process where both parties to the dispute must agree to participate. Alternatively, files will be handled using the more formal investigative process. The Privacy Commissioner consulted with the Canadian Human Rights Commission in developing its strategy. The interviewee indicated that Privacy Commission investigators are typically handling 50 to 55 cases. According to the interviewee, the industry standard is ideally 20 to 25 cases per officer.

The CPC introduced a triage process and also looked at some organizational cultural issues related to handling complaints. The triage process categorizes complaints as level 1, 2 or 3 based on the expected level of effort to resolve. The interviewee commented that there had been a tendency for analysts to address every possible issue rather than focusing only on the specifics of a particular complaint. The CPC calls complainants to seek clarity about the complaint before a file is opened. The vast majority of complaints are resolved informally in a matter of days. The triage process has resulted in a significant reduction in formal complaints. In previous years there were about 1,000 formal complaints per year, now there are approximately 150 per year. Other improvements have been the establishment of a 1-800 telephone number, simplified complaints form, FAQ section on website, use of e-mail notifications to RCMP instead of by traditional mail. Complainants are notified in 120 days if the matter has not yet been resolved to communicate status and manage expectations.

*Benefits of Intake and Early Resolution Function*

The following chart provides a summary of benefits on an Intake and Early Resolution Function.

<b>Benefits of Intake and Early Resolution Function</b>
<p><u>Enhanced Client Service Focus</u></p> <ul style="list-style-type: none"><li>• Provides a ‘service window’ to the organization and facilitates centralized management of all incoming inquiries, complaints, mail, etc.</li><li>• Helps promote greater consistency by grouping similar tasks together.</li><li>• Provides a more regular point of contact between the Commission and institutions that are dealt with on a routine basis.</li><li>• Utilization of standardized complaints forms assists both the complainant and the Commission for organizing incoming information and details about the complaint.</li><li>• Ensures dedicated resources are assigned to the ‘front end’ of the process and provides a centralized location for the development and implementation of tools to assist with ‘fast-tracking’ of complaints ( i.e. products and tools such as checklists for complainants, FAQs, standardized forms, pamphlets, and publication of best practices information). For example, refer to Ontario’s Code of Procedure at <a href="http://www.ipc.on.ca/images/Resources/up-code_e.pdf">http://www.ipc.on.ca/images/Resources/up-code_e.pdf</a> and standardized appeal form at <a href="http://www.ipc.on.ca/images/Resources/up-appfirm_e.pdf">http://www.ipc.on.ca/images/Resources/up-appfirm_e.pdf</a>). The CPC also has some useful information tools (refer to <a href="http://www.cpc-cpp.gc.ca">http://www.cpc-cpp.gc.ca</a>).</li><li>• In order to improve client service, the IPC in Ontario and CPC mentioned working with institutions with bad track records to provide advice, assistance and find specific ways to expedite exchange of information such as sending notifications by fax instead of regular mail.</li><li>• In addition, a multiple-user policy was developed in Manitoba to deal with parties that were being excessive in the volume of complaints. Under these circumstances, they limit the number of requests from these individuals that will be dealt with at any given time so they are able to more fairly address the needs of a wider number of people.</li></ul>
<p><u>More Productive Use of Investigative Staff</u></p> <ul style="list-style-type: none"><li>• Investigative staff is not assigned files until the Intake Analysts have reviewed the complaint, sought clarification if necessary, and gathered supporting documentation from the institution.</li><li>• Investigators do not start until necessary materials have been provided so they do not waste time chasing down materials thereby reducing the number of active files on hold. This should result in a better utilization of investigative skills and less time spent on administrative tasks.</li></ul>
<p><u>Improved Staff Morale</u></p> <ul style="list-style-type: none"><li>• Managers at IPC in Ontario and the CPC indicated that staff feels less overwhelmed due to greater specialization of tasks. There are well defined start and finish points to their work. Roles, responsibilities and expectations are clearly understood.</li></ul>
<p><u>Improved Response Time for More Straightforward Complaints</u></p> <ul style="list-style-type: none"><li>• Triage work performed by Intake Analysts who have the necessary skills enables early resolution of straightforward complaints.</li><li>• Clerical support provided by administrative support team also contributes to reduced overall response times.</li></ul>
<p><u>Increased Delegation of Authority</u></p> <ul style="list-style-type: none"><li>• As operational processes have evolved, Ontario has had success in delegating sign-off on various files to lower levels within the organization depending on type and complexity thereby reducing time spent awaiting management approval where appropriate.</li></ul>

### **3.3 Appropriateness of Existing Service Standards**

#### *Observations*

Although there is no legislative requirement to resolve complaints within a specific period of time, the OIC introduced the current service standards (30 to 120 days) in 2003-2004 to clarify expectations for complainants and ATIP community, and to monitor the utilization of staff resources. Focus group participants questioned whether an appropriate analysis was done to test the feasibility of these services standards before they were implemented.

The general feedback from all four focus groups (OIC and ATIP community) was that the current service standards are neither well thought out, nor reasonable. Although well intentioned, time based standards tend to place the emphasis on moving files quickly without regard for quality concerns such as fairness and due diligence. Staff felt that standards should be re-assessed and based on average turnaround times using more recent data. From an overall performance perspective, staff indicated that OIC should also be tracking if complainants are satisfied with the process, regardless of whether or not they were happy with the end result or final decision. Staff also stressed that the current service standards do not provide for time lost due to waiting for information and consultations with parties or complexity of file. Standards were described as being out of date and unrealistic because they were not based on real baseline data. They are seen as being too rigid and time specific. The focus on time over quality is a general concern.

Rather than formal service standards, the other organizations tended to have internal performance targets or guidelines for handling their range of files and monitoring productivity. All organizations contacted indicated that turn around time for handling complaints is tracked for internal purposes. For example, in Ontario time monitoring is done at different levels. The clock starts when the complaint comes in and stops when the file is ultimately closed. However, the clock on the investigative phase does not start until the investigator receives a complete file (i.e. ready to work with) from the intake unit. There is also a built-in ability to stop and start the clock throughout the process when a file is temporarily on hold for a particular reason. Ontario has internal performance standards that are both qualitative (competency-based assessment of investigative staff skills) and quantitative (time for successful resolution of complaints which takes into account when a file is on hold). The CPC and the Privacy Commission also have their own internal performance standards for processing time. For example, the CPC has a self-imposed a target that 80% of complaints should be resolved within 120 days. If a complaint goes beyond 120 days, the complainant is contacted in order to manage expectations accordingly. IPCs in some Canadian jurisdictions have legislated timelines for responding to complaints but do not have formal service standards.

The OIC has used its service standards as the basis for defining backlog. OIC defines backlog as the number of complaints that were not completed within OIC's service standards (speed standards: 30 days for administrative complaints and 120 days for refusal complaints which does not include management review). The clock starts ticking on complaints when they are registered within OIC's internal system even though there may be a significant delay in assigning cases to investigative staff. Files automatically move to backlog status on Day 31 for administrative files and Day 121 for all other types of files. Investigators complete an average of 45 files per year. Files have varying degrees of complexity depending on the specific details of each complaint. This definition of backlog has created a number of issues for the OIC, including overwhelmed and stressed staff.

There are a variety of different definitions of what constitutes backlog by the various organizations consulted as part of this review. For some, backlog is defined in terms of unassigned cases. For example, in BC backlog is defined as files not yet assigned to a Portfolio Officer. The Privacy Commissioner also indicated that once a case has been assigned to an investigator that it is no longer considered as waiting in the queue or in backlog status. Alternatively, the CPC would only consider a complaint as being backlogged if it carried over for more than one year.

*TB Guidelines on Service Standards*

Treasury Board Secretariat guidelines for service standards include:

- Service standards are to include five essential elements: a description of the service; service principles; delivery targets; costs of service; and complaint and redress mechanisms – while the Office is not required to have service standards, the current ones are limited in integrating these five elements.
- Service standards should be meaningful to individuals (cover elements of service that are visible to individuals using the service) – the current service standards appear to outline the process more than the service commitments and include many elements that are not visible to individuals.
- Service standards should be based on consultation – it is unclear whether or not the current commitments outlined to the clients are acceptable or even required; for example, the delivery target for the informal investigative procedure is 30 to 90 days but it is unclear how this “standard” was identified (client preference, actual delivery, something else); in order to be meaningful, they should be based on consultations with clients (who may prefer to wait longer to get a more thorough job done).

- Attainable and challenging – based on the extent of backlog as currently defined, the service standards are unattainable.
- Affordable – service standards should include user charges, if applicable, and should be attainable within available resources; it is evident that this is not the case for the Office of the Information Commissioner.

Another important aspect of the problem behind the current service standards is that it does not take into consideration the responsibilities of other parties and how these can affect various parts of the timelines. For example, if a departmental coordinator is not available within five days of a request by the investigator, the standard becomes unachievable. However, this is not something within the sphere of control of an investigator and thus should not be part of the service standards. Once the informal investigative process is refined, it will be clearer what parts of the process can be included as timelines in the service standards.

Overall, the service standards appear to be more a detailed description of the process than a description of services and a commitment to a standard level of service. While it is important for complainants to understand the process, a description of this process with timelines does not constitute organizational service standards.

## **4.0 Conclusions and Recommendations**

A total of 70 suggestions for improvement were identified by OIC staff and intermediate management, as well as representatives from the ATIP community and TBS. Based on the specific suggestions, as well as lessons learned from other organizations, a number of recommendations for streamlining the OIC's complaints handling process have been developed and are presented below. Our overall conclusions and recommendations focus on:

- enhancing OIC's service focus for Canadians;
- relevance of OIC's current service standards;
- collaboration, cooperation and consultation with Institutions;
- improved research and reporting tools for investigative staff;
- streamlining the management review process; and
- implementation considerations.

### **Enhancing OIC's Service Focus for Canadians**

#### ***Conclusion #1***

The establishment of a more robust Intake and Early Resolution Unit would enhance the quality and timeliness of services provided to Canadians and help streamline some of the processes. Lessons learned from other organizations indicate a unit of this nature should be staffed with a blend of administrative support personnel as well as experienced investigators who would have the necessary skills to assess the validity of complaints and identify situations where early resolution is both practical and feasible.

#### ***Recommendation #1***

The Office of the Information Commissioner should establish an Intake and Early Resolution Unit to act as a service window to the public thereby enhancing its client service focus by providing Canadians with simple and timely access. All complaints should initially be directed to this unit which will be responsible for:

- acknowledging receipt of the complaint;
- contacting complainant as quickly as possible to verify rationale, scope and other details relevant to the complaint if unclear;
- prioritizing complaints for action based on criteria such as type, institution involved, level of complexity, and urgency through a triage process;

- early resolution of administrative complaints where possible – this would involve, for example, contacting the institution involved to determine if the matter has been dealt with already and, if so, contacting the complainant to see if (s)he is satisfied or still wants to pursue the complaint; if the complainant still wishes to pursue the complaint, the file would be prepared for assignment to an investigator;
- requesting and obtaining necessary records from institutions (limited to specifics of complaint, not everything) and preparing files for those complaints that will move on to the investigative phase.

Since the establishment of an Intake and Early Resolution Unit is a key component of its client service strategy, it is recommended that the success of this approach be reviewed one year following implementation to examine lessons learned and to make adjustments where necessary. The review should include feedback from a sampling of service users and institutions as key stakeholders in the process.

### **Relevance of Current Service Standards**

#### ***Conclusion #2***

Although there is no legislative requirement to resolve complaints within a specific period of time, the OIC introduced the current service standards (30 to 120 days) in 2003-2004 to clarify expectations for complainants and the ATIP community, and to monitor the utilization of staff resources. These service standards are ineffective in helping better serve Canadians. They are also ineffective in helping staff better manage their workload as they are deemed unreasonable and unachievable. Overall, the service standards describe the process rather than the OIC services and its commitment to a standard level of service.

#### ***Recommendation #2***

The Office of the Information Commissioner should abandon its existing service standards and develop internal performance targets for communicating expected timelines to Canadians depending on the nature and complexity of their complaint. As complaints are reviewed by the Intake and Early Resolution Unit, anticipated timelines for resolving the particular complaints should be communicated directly to complainants so they may determine if they would like to continue to pursue the complaint or perhaps modify the specific aspects of their complaint to ensure a speedier resolution. A clear set of criteria should be established to guide staff in the Intake and Early Resolution Unit in prioritizing complaints. These criteria could include the type of complaint, level of

complexity, institution involved, existing workload, and / or other criteria. In order to effectively manage its workload and serve all Canadians, OIC must also have the flexibility to determine the relative priority of incoming requests giving consideration to criteria such as urgency (e.g. matters of national importance, OIC priorities, legal matters before the courts, legislative or policy implications, national security, public safety), as well as the number and nature of complaints already being addressed by the user at a given time.

Should the OIC choose to maintain service standards, a process such as the one described in Annex C should be followed to replace the existing service standards.

### ***Conclusion #3***

Utilizing the completion of files according to time-based service standards as the basis for defining backlog has been problematic, particularly when key aspects of the complaints handling process are outside of the OIC's direct control. With the implementation of the Intake and Early Resolution Unit, and the abandonment of current service standards, the notion of backlog as currently defined would no longer make sense.

### ***Recommendation #3***

The Office of the Information Commissioner should redefine backlog as complaints which have been assessed by the Intake and Early Resolution Unit as legitimate complaints but which have not yet been assigned to an investigator.

## **Collaboration, Cooperation and Consultation with Institutions**

### ***Conclusion #4***

There is an expressed willingness in the ATIP community to work in collaboration with the OIC to implement improvements to make the current complaints handling process more efficient for the OIC and institutions. However, the current working relationship is not yet one of full collaboration, cooperation and consultation. Some of the barriers to enhanced working relationships are due to heavy workload within the ATIP community as well as some inherent weaknesses in the OIC's complaints handling process. Numerous suggestions were provided by ATIP representatives as well as OIC staff for improving communications and working together to streamline the investigative process (e.g. limiting the scope of investigations, reducing the number of meetings, institutions taking more responsibility for the collection of required documents). The ATIP representatives who participated in the review were supportive of the concept of an Intake and Early Resolution Unit and greater specialization of OIC investigative staff to better serve the needs of institutions.

***Recommendation #4***

OIC should improve its service to institutions by implementing a portfolio approach to reduce the number of investigators dealing with any given institution and to build up a greater level of expertise and understanding with respect to the unique characteristics and types of records held by various institutions.

OIC should also further examine the scope and feasibility of improvements suggested in Section 3.1 through a more broadly based consultation within the ATIP community. These suggestions should be prioritized and a detailed implementation plan developed to address specific initiatives that are aimed at: streamlining the exchange of information on complaints, collecting required documentation and rationale from ATIP representatives; as well as, providing better information tools to institutions to assist in responding to complaints more efficiently.

**Implementation Considerations**

***Conclusion #5***

The OIC is in a period of significant transition. It is dealing with a high volume of unresolved complaints and a significant number of new institutions subject to the *Act*. Given recent organizational changes and the recommended creation of an Intake and Early Resolution Unit, it will be very important to ensure the division of roles and responsibilities between various staff levels, intermediate and senior management are clearly understood. It is anticipated that as an increasing number of complaints are handled through alternative resolution methods and earlier in the process, the OIC will be in a better position to manage the total number of cases assigned to investigators at any given time. This should help to reduce the time spent by investigators re-familiarizing themselves with details about the file, and should also reduce the risk of error and stress levels of staff.

***Recommendation #5***

As these recommendations will require a combination of structural, process and staffing changes, OIC management should develop an Action Plan to guide their implementation over time. The Action Plan should also include a strategy for consulting with the ATIP community on key process changes. Institutions will also have an important role to play in collaborating on process improvements that will ultimately affect the OIC's ability to provide improved service to Canadians.

**Other Considerations**

A number of other suggestions made by OIC staff and intermediate management are internal and specific to the informal investigation phase, management review and report finding and file closing. There were also several suggestions aimed at improved research and reporting tools for investigative staff. (Refer to Section 3.1) These suggestions were useful in the context of this study. However, the aforementioned recommendations focus on the changes that are most likely to significantly enhance the OIC's service to Canadians. Nevertheless, as the OIC proceeds with the implementation of the above recommendations through its Action Plan, the benefits of these specific suggestions for internal process improvements should be considered for future implementation.

**Annex A –Documents Reviewed**

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**List of Documents Reviewed**

**Office of the Information Commissioner**

Annual Reports (2003-2004, 2005-2006, 2006-2007)

OIC Employee Survey Responses (July 19, 2007)

Administrative Procedures Manual

Service Standards

Monthly Statistics for the Month Ending October 31, 2006 to October 31, 2007

Ideas for Expediting the Investigation Process (Short Term and Long Term)

GRIDS ([www.infocom.gc.ca](http://www.infocom.gc.ca))

Summary Notes from Consultations with British Columbia, Manitoba and Alberta Information and Privacy Commissions

Preliminary Restructuring of the Complaints Resolution and Compliance (CRC) Branch (Special ICMG Meeting, August 30, 2007)

Review of the Policy, Communications and Operations Branch (August 2007)

Position Descriptions (CR-3, CR-4, AS-1, AS-2, AS-3, AS-4, PM-3, PM-4, PM-5, PM-6)

Organization Chart – Complaints Resolution and Compliance Branch (October 26, 2007)

Overview of OIC Complaints Investigation Process (Nov. 13, 2007)

Fictional Complaints Investigation File:

Report of Finding

Investigation Report – Refusal to Disclose

Documented Events for Investigation #

Exemption Analysis Worksheet

Notice of Intention to Investigate and Summary of Complaint

Heads-Up Notice

Assignment Letter

OIC Investigation Summary Report

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**Privacy Commissioner of Canada**

Annual Report to Parliament 2006-20 – Report on the Privacy Act (Appendix 2)

Proposed Complaint Process Flow Chart

**Commission for Public Complaints against the RCMP**

<http://www.cpc-cpp.gc.ca>

Restoring Institutional Credibility: Slaying the Backlog and Transforming the Backlog Culture (Slide Deck)

**Information and Privacy Commission of Ontario**

The Appeal Process Flow Chart

Best Practices for Institutions in Mediating Appeals

Mediation Tool Kit

Mediation of Appeals Overview

Mediation Tips for Institutions

Preparing for Mediation at the IPC Checklist

Mediation at the IPC (training DVD)

Practice Direction, Number 1, August 2000

Pamphlet - The Appeals Process and Ontario's Information and Privacy Commissioner (September 2000)

Appeal Form

**Office of the Information and Privacy Commissioner – Alberta**

Annual Report (2004-2005, 2005-2006)

Procedures for Complaints (FOIP)

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Procedures for Reviews (FOIP)

Request Form

Intake Tracking Sheet

Intake Officer Position Description

**Office of the Information and Privacy Commissioner – British Columbia**

Policies and Procedures, November 2006

Time Extension Application Form

How to File a Complaint to a Public Body

Request for Review / Privacy Complaint Form

Closed File Review Checklist

**Ombudsman Manitoba**

Freedom of Information and Protection of Privacy Act Complaint Form

Evaluation of Compliance with Section 12 of FIPPA: The Required Contents of Responses to Access Request. (May 2005)

Frequently Asked Questions about FIPPA.

Your Right to Know: Five Points about Access to Information for Requesters

Access and Privacy Division Standards

Maximizer Inquiry / Case File Checklist

Organization Chart

Position Description

Draft Guidelines for Inquiries and Case Files

Policy of Multiple Complaints: Procedures for Processing Multiple Complaints from an Individual

Index of Practice Notes

***Treasury Board Secretariat – Chief Information Officer Division***

Provisions of the *Access to Information Act* describing the responsibilities of the Designated Minister

**Annex B – Interviewees and Focus Group Participants**

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## **OIC Management and Staff**

Robert Marleau	Andrea Neill	Suzanne Legault	Daniel Brunet
Sharon Nadeau	Ernie Fraser	Carol Audette	Dan O'Donnell
Eric Murphy	Sandy Mulloy	Donna Billard	Nicole Boudreault
Ginette Grenier	Scott Lohnes	John Armstrong	Viviane Lanthier
Valerie Lance	Bob Hopkins	Grant Boyd	Dan Bourgeault
Robert Plante	Katherine Smillie	Cecilia Davis	Chris Montgomery
Larry Kearley	Sandra George	Carmen Garrett	

## **ATIP Community**

**Public Safety Canada** - Sylvie Séguin-Brant

**Health Canada** - Ross Hodgins

**Department of Justice** - Diane Leroux

**Canada Post** - Joan Mann

**Fisheries and Oceans** - Norma McLelland

## **Other Organizations**

### **Treasury Board Secretariat Chief Information Officer Division**

Donald Lemieux  
Thérèse St-Amant  
Sue Lajoie

### **Ontario Information and Privacy Commission**

Robert Binstock  
Mona Wong

### **Commission for Handling Complaints against the RCMP**

Brooke McNabb

### **Office of the Privacy Commissioner of Canada**

André Lefebvre

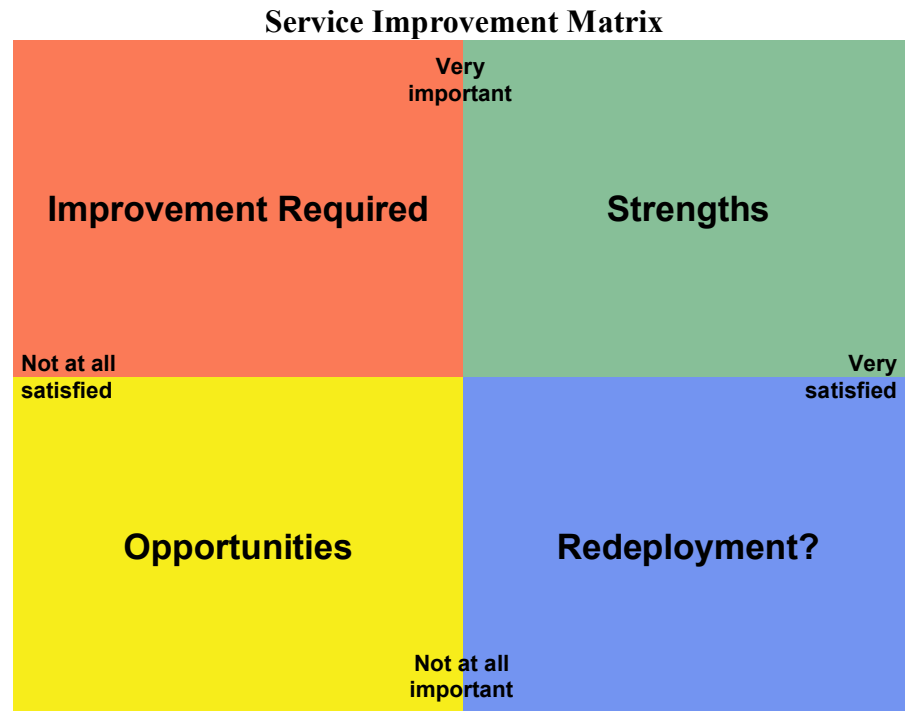
**Annex C – Approach to Development of Service Standards**

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If the OIC decides to develop new service standards, it should consider using the approach outlined below.

- Identification of the OIC services (not of the OIC complaints handling process);
- For each service, identification of the aspects of the services that are within the control of the OIC;
- For those aspects of the services outside the OIC, identification of the OIC requirements from other parties before the OIC can proceed;
- For those aspects of the services within the control of the OIC, identification of the current levels of service
- For those aspects of the services within the control of the OIC, identification of the importance of each aspect to “clients” (complainants);
- For those aspects of the services within the control of the OIC, identification of the satisfaction of clients with the current levels of service;
- Based on this information, the OIC can determine the aspects of services that are currently acceptable to clients versus those that need improvements. This would be done based on the following principles:
  - *Improvement Priorities*: Your clients are not satisfied with the organization's performance in these service areas which are **most important** to them. All features in this quadrant are service weaknesses and should be considered a service improvement priority for the organization.
  - *Strengths*: Both customer satisfaction and importance are above the midpoint for these features. No improvement is necessary at this time.
  - *Redeployment?*: Satisfaction is high for these features which are **not important** to your clients. No improvement is required. In fact, resources may be wasted here which could be transferred to higher priority areas.
  - *Opportunities*: Client satisfaction with the organization's performance on these features is low, but the features are not important. Improvements here are not priorities at this time.

The chart which follows illustrates how each area can be identified.



- This information can then be used to develop the actual service standards. Those items that are important to clients should be included in the standards whereas those that are not important should not be included. Current service levels should be maintained for the aspects of service that are OIC strengths whereas service levels should be improved for aspects of service where improvements are required.