

ACCESS TO INFORMATION

Shutting the door in Nova Scotia

BY DEAN JOBB

The province now has the highest access fees in the country Nova Secrecy.

It hardly seems like a suitable moniker for the province that pioneered freedom of information legislation in Canada in the 1970s. But it now fits all too well, thanks to the decision of Nova Scotia's Progressive Conservative government to force citizens to pay the highest fees in the country for access to public information.

The fee hikes — announced this spring without warning or consultation with users of the provincial Freedom of Information and Protection of Privacy Act — threaten to put the cost of accessing information out of the reach of citizens, advocacy groups, unions, opposition parties and journalists.

It now costs \$25 to file an application, up from a token \$5. The act used to stipulate that the first two hours of search time were free, but no more — the meter is running from the moment an application is received and the research fee has been hiked, from \$20 to \$30 an hour.

To add insult to these injurious hikes, it costs another \$25 to seek a second opinion from the act's review officer if the government refuses to release all or some of the information sought. The appeal process used to be free, and it's a routine step for most applicants, since Nova Scotia bureaucrats — like those in other provinces — are eager to cite exemptions and withhold information.

Rob Cribb, president of the Canadian Association of Journalists, described the increases as "unprecedented, outrageous, and unwarranted." While Alberta charges \$25 per application and Ontario has a \$25 appeal fee, no other province has a combined fee (for requests and appeals) that even comes close to the Nova Scotia rates. In British Columbia, Saskatchewan, Quebec, and Manitoba, both applications and appeals are free. Nova Scotia's new per-hour search fee is also at the top of the scale.

"What Nova Scotia has basically done is handpick the highest fee in every category ... and merged it into one horribly expensive fee structure," noted Cribb, who traveled to Halifax to make a submission to a legislative committee reviewing the increases.

How could a fee structure that has been in place since 1993 suddenly be deemed inadequate? The Tories have portrayed access charges as just another user fee. Deputy Premier Ron Russell claimed his government's is trying to "better balance" the cost of administering the act — by the government's estimate, \$780,000 a year — against the fees recovered, which amounted to about \$9,000 in the latest fiscal year.

The target of this balancing act are journalists and anyone else who might question government spending, decisions or policies. Taxpayers are subsidizing "costs incurred by a relatively select few," Russell declared, even though citizens are the heaviest users of the act and the media account for only one-third of requests. He even suggested that news stories attribute information to documents obtained under the act because "it sounds as though it's more secretive than it is."

This strained rationale overlooks government's duty to be accountable to the public. There's no recognition that taxpayers have already paid to collect, file and store information — information that belongs to the people, not to the party in power. Ignored, too, is the reality that high fees create an economic barrier to accessing information.

Also absent is any justification for the magnitude of the fee hikes. The government expects to raise about \$170,000 from the new fees based on the 1,000 requests received last year. This is dubious accounting at best, since experience in other jurisdictions has shown that higher fees mean fewer requests. The cost-recovery argument also falls flat, as Cribb pointed out, because citizens can continue to seek their own personal information without charge.

The government's goal is clearly to reduce the number of requests and keep its waste and mismanagement out of the headlines. Recent access requests exposed a sweetheart contract for Premier John Hamm's new chief of

staff and revealed that a top political staffer was hired despite pocketing a \$71,000 buyout from a previous administration. Little wonder that an email surfaced (through an access request, of course) suggesting the premier's office was quarterbacking the drive to hike fees.

Short-term criticism for hiking fees, in the government's view, was worth an assurance of fewer embarrassing revelations down the road. As it turned out, the government pushed through the increases with little outcry. While the Nova Scotia chapter of the CAJ led the fight against the fees, coverage in the local media was sporadic and disappointing.

Such complacency is surprising. Local journalists have used the act to uncover failed casino bids, the contract for a privately built toll highway, lavish spending by the lieutenant governor, government duplicity in the Westray disaster, and an internal report into a flawed program to compensate alleged victims of abuse in reform schools.

In the past, the government has waived search fees based on financial need or if bureaucrats agreed the information should be released in the public interest. It's unclear whether such breaks will continue in the face of the cost-recovery mantra. The Tories have also invited informal requests for information (lacking any deadline for response or right of appeal) and may designate more information as subject to routine disclosure.

The impact of the fee hikes has been immediate. Darce Fardy, the act's review officer, received 18 appeals in April 2001. This April, he reports, only two complaints not related to personal information have been lodged with his office, both from political parties. It's an early sign that Nova Scotia is entering a dark era of secrecy and unaccountable government.

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<http://www.caj.ca/mediamag/summer2002/access.html>