Guideline

Information Management Legal and Regulatory Framework

GOVERNANCE

Authority:	Office of the Chief Information Officer
Applicability:	Information Management professionals and other resources responsible for the implementation and operation of a records and information management system (also referred to as an Information Management Program) within a department or other public body, as defined in the Management of Information Act.
Compliance Level:	Recommended
Issuing Public Body:	Office of the Chief Information Officer
	Application and Information Management Services
	Information Management Services
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Notice:

The Office of the Chief Information Officer (OCIO) is mindful of creating and delivering accessible materials, in line with the Government of Newfoundland and Labrador's Accessible Communications Policy. New materials created by OCIO align with policy requirements and modifications to existing materials will occur as part of the standard review cycle.

This document is available in alternate format. Please contact OCIO@gov.nl.ca.

Forward questions and/or comments related to this document to IM@gov.nl.ca.

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1.0   Overview

This guideline assists departments and other public bodies in developing an effective Information Management Legal and Regulatory Framework. An IM Legal and Regulatory Framework is a compilation of all of the legislation, policy, regulations and agreements that contain IM requirements with which the public body must demonstrate compliance.

Having an effective IM Legal and Regulatory Framework will serve to:

— Align and integrate all IM compliance requirements and responsibilities into a single IM Legal and Regulatory Framework;

— Assign roles, responsibilities and accountabilities for each IM compliance requirement listed in the IM Legal and Regulatory Framework;

— Improve the ability to communicate the organization's commitment to and current state of IM compliance;

— Improve organizational efficiency through the documentation and clear communication of responsibilities, supporting the most efficient and effective use of resources and activities;

— Support employee orientation, knowledge transfer and overall education and awareness of IM compliance requirements.

Guidelines are recommended actions, general approaches and operational behaviors. Guidelines are generally a description that clarifies what should be done and how to achieve the objectives set out in policies, directives and standards.

Guidelines issued by OCIO provide a recommended approach, as they take into consideration the varying nature of information management programs.

2.0   Purpose

The IM Legal and Regulatory Framework Guideline provides a recommended approach that will serve to drive the design, development, implementation and management of an effective IM Program. This Guideline is part of a broader GuideBook that supports the requirement set forth in MOIA for permanent heads of departments and other public bodies to implement a records and information management system.

Expected Outcomes(s)

1. Establish a process for managing IM Compliance using an IM Legal and Regulatory Framework, including
   a. IM Legal and Regulatory Framework Matrix
   b. IM Legal and Regulatory Framework Roles and Personnel Listing
   c. IM Compliance Management System

The GuideBook, also known as the Guide to IM for Public Bodies, includes the following guidelines.

1.0 Foundation

- 1.1 IM Governance, Accountability and Organization
- 1.2 IM Vision, Mission and Guiding Principles
- **1.3 IM Legal and Regulatory Framework**
- 1.4 IM Program Plan

2.0 Components

- 2.1 IM Policy Instruments
- 2.2 IM Performance Measurement
- 2.3 Service Continuity
- 2.4 Education and Awarness for IM Professionals
- 2.5 IM Education and Awareness for Employees
- 2.6 Physical Records Storage Development and Use
- 2.7 Information Protection

3.0 Tools

- 3.1 Records and Information Inventory
- 3.2 Classification Plan Development for Operational Records
- 3.3 Records Classification Plan Implementation
- 3.4 Disposal of Records
- 3.5 Record Imaging Services

3.0   Definitions and Acronyms

A complete listing of terms are located on the OCIO website - Information Management and Protection (IM&P) Glossary of Terms.

IM Legal and Regulatory Framework - a compilation of all of the legislation, policy, regulations and agreements that contain IM requirements with which the department or other public body must demonstrate compliance.

Individual - For the purposes of OCIO IM policy instruments the definition of individual refers to all staff, contractors, consultants, partners, students, temporary workers, volunteers, vendors, agents, third parties and other persons working on behalf of the Government of Newfoundland and Labrador, including all departments and other public bodies as defined under the Management of Information Act.

IM Policy Instruments - IM policy instruments include policies, directives, standards, guidelines and procedures that provide direction or guidance on the management and protection of information aligned with the principles set forth in the Information Management and Protection Policy. The OCIO extends the definition to include policy instrument supports such as Webpages, FYIs, FAQs, Quick Reference or Re-Use Materials (template, poster, image, etc.).

The table below includes common abbreviations used by OCIO as well as acronyms found within this document.

| Abbreviation	Description
IM	Information Management
MOIA	Management of Information Act
OCIO	Office of the Chief Information Officer
ADM	Assistant Deputy Minister
ATIPP	Access to Information and Protection of Privacy
ATTIPA, 2015	Access to Information and Protection of Privacy Act, 2015

4.0   Recommended Approach

The intent of this Guideline is to provide recommended actions, general approaches and operational behaviors that when implemented will serve to drive the design, development, implementation and management of an effective IM Program.

An IM Legal and Regulatory Framework incorporates all of the IM compliance requirements that a department or other public body must satisfy. The department or other public body is required to be able to:

— Determine the IM legal and regulatory requirements that apply to the department or other public body, are binding on it and / or with which it must comply;

— Develop its Framework to encompass IM legal and regulatory requirements, including IM compliance requirements;

— Identify by position title or role who is assigned responsibility for each IM compliance requirement listed in the IM Legal and Regulatory Framework;

— Promote IM compliance through training and awareness activities;

— Enforce IM compliance by verifying the extent of compliance with the IM Legal and Regulatory Framework, and identifying any areas of non-compliance;

— Address any non-compliance issues; and

— Report on the satisfaction of all IM compliance responsibilities and accountabilities listed in the IM Legal and Regulatory Framework.

The OCIO has created a number of resources including the Quick Reference – Compliance Management System to support departments and other public bodies in creating and implementing an IM compliance system using an IM Legal and Regulatory Framework.

The following graphic highlights the general process of managing IM compliance through the development and implementation of an IM Legal and Regulatory Framework.
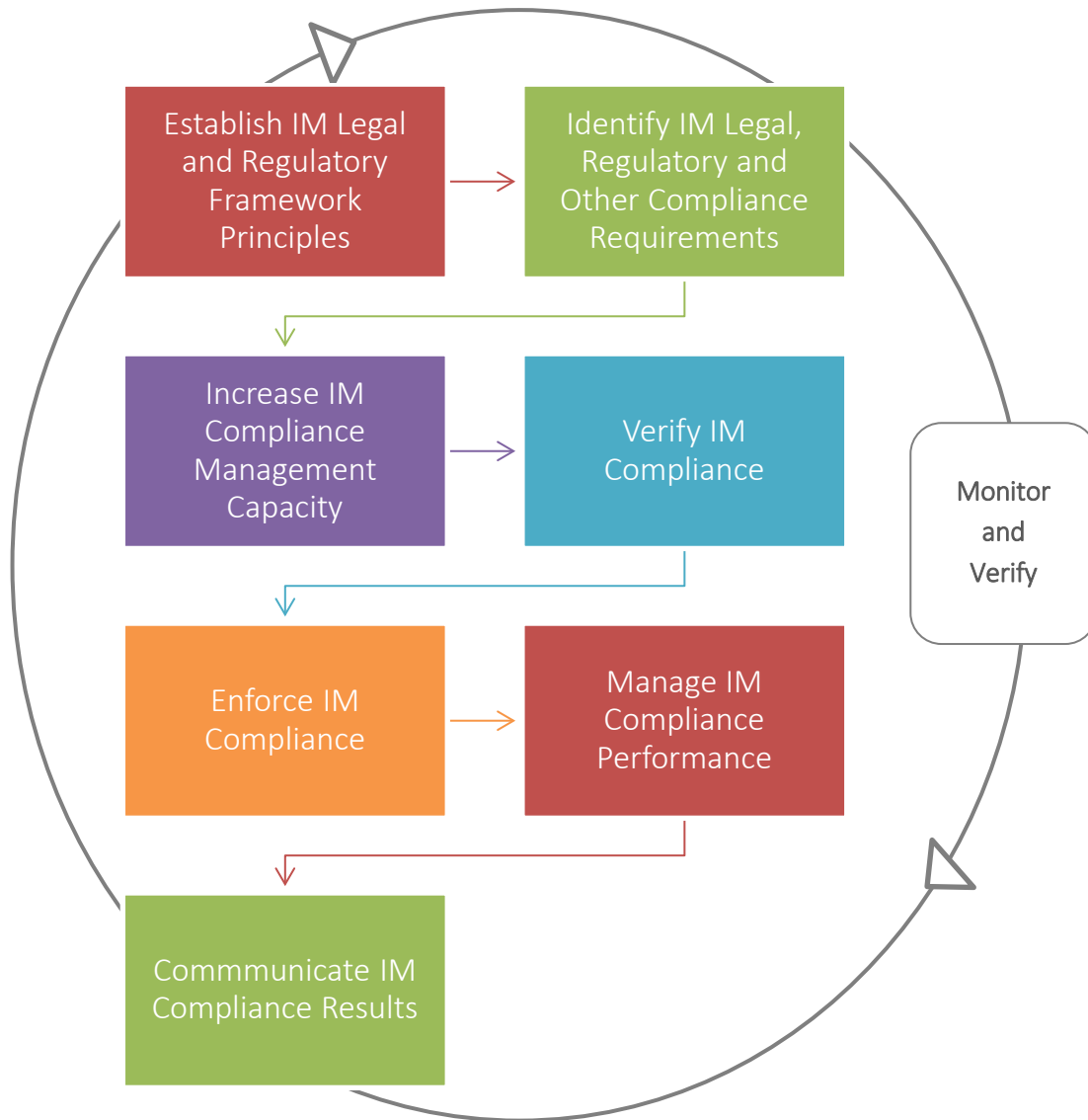
4.1 Establish IM Legal and Regulatory Framework Principles

The OCIO has established a number of principles to guide those responsible for an IM Program in establishing and IM Legal and Regulatory Framework. An effective and efficient Framework will consider the principles noted below at all stages:

Accountability and transparency	Most appropriate approach / methods	Use of best available information	Coordinated IM compliance activities

4.2 Identify IM Legal, Regulatory and Other Compliance Requirements

Departments and other public bodies can find IM legal, regulatory and other requirements in existing legislation as well as other sources (e.g., OCIO-issued IM Policy Instruments, information storage contracts, etc.) that contain binding statements with respect to information management; a non-inclusive list is noted in the table below.

IM Legal and Regulatory Sources	Other IM Compliance Sources
Management of Information Act (MOIA)	Federal and Provincial legislation and regulations where applicable for specific departments;
Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)	Government of Newfoundland and Labrador policy, directives, standards and procedures.
Electronic Commerce Act	Departmental or other Public Body contractual requirements agreements and other similar undertakings.
Rooms Act	
Transparency and Accountability Act	
Evidence Act	
Financial Administration Act	

Once an inventory of IM legal and regulatory requirements has been developed and incorporated in an IM Legal and Regulatory Framework Matrix, the department or other public body's legal advisor should review the list for accuracy, relevance and completeness.

It is important to consider the other components in the management framework of the GuideBook such as governance and accountability. For example, when creating new policy instruments what are the considerations needed for approval (i.e., why is policy instrument required, under what legal/regulatory need, what are the impacts of implementation or not implementing for the IM program, are key stakeholders engaged, etc.).

4.3 Develop IM Compliance Management Capacity

Establish approved and communicated materials that are regularly reviewed and shared with key stakeholders supports IM capacity growth and is a primary support for IM compliance. This section will highlight four areas noted in the table below and in the following sections.

IM Legal and Regulatory Framework Matrix	Compliance Requirement Details	Training and Awareness	Implement IM Compliance Management System

4.3.1 IM Legal and Regulatory Framework Matrix

The IM Legal and Regulatory Framework is typically represented as a table or matrix:

— This matrix shows the complete list of IM legal and regulatory requirements; and

— These IM legal and regulatory requirements are mapped against the department or public body management team role(s) assigned responsibility for compliance oversight.

— Assign responsibilities for each IM Legal and Regulatory requirement to a title/position within the department or public body.

Developed as a simple matrix and constructed as a table the framework document is from one to three pages in length, listing:

— In the first column of the table or matrix, all IM legal and regulatory requirements;

⸺ In the second column, the oversight entity for each IM legal and regulatory requirement; and

⸺ In subsequent columns, show the position(s) or roles within the department or public body who are specifically responsible for each IM legal and regulatory requirement. For example:

IM Legal and Regulatory Requirement	Oversight Entity	Position/Role	Position/Role	Position/Role	Position/Role
Example: Management of Information Act	Example: Office of the Chief Information Officer	Example: Deputy Minister (head of public body)	Example: Assistant Deputy Minister responsible for IM (delegated)	Example: Director responsible for IM (delegated)	Example: Manager responsible for IM (delegated)

The table below highlights a basic outline of an IM Legal and Regulatory Framework Matrix; a template and detailed example, with more specific requirement references, is available on the OCIO website.

Illustrative IM Legal and Regulatory Framework Matrix

IM Legal / Regulatory Compliance Requirement	Oversight Entity	Deputy Minister	ADM responsible for IM	Director responsible for IM	ATTIP Coordinator	+ more
1. Management of Information Act	OCIO	X	X	X		
2. Information Management and Protection Policy	OCIO					
3. Acceptable Use of the Government Network and Information Technology Assets	OCIO					
4. + Federal/Provincial Legislation						
5. + GNL Policy Instruments (policy, directive, standard, procedure, etc.)						

IM Legal / Regulatory Compliance Requirement	Oversight Entity	Deputy Minister	ADM responsible for IM	Director responsible for IM	ATTIP Coordinator	+ more
6. + Contractual Requirements and Agreements						

Important Considerations:

—— In an IM Legal and Regulatory Framework, it is typical to specify the reporting chain from the individual / role responsible for the specific compliance requirement up to the head of the organization.

—— In its IM Legal and Regulatory Framework matrix, a department or other public body should identify the role responsible for **each** IM legal and regulatory requirement; and

—— Sometimes this chain of responsibility up to the head of the public body may be specified in job descriptions and in other cases, the required relationship may be defined in a directive, letter or memorandum that assigns responsibility for one or more IM legal and regulatory requirements to a specific position, role or person.

4.3.2   Compliance Requirement Details

It is important to document the details of the compliance requirements. Typically, this includes the details needed to meet the specific requirement, the mechanisms for tracking compliance, the controls implemented to reduce risk and finally the reporting and verification frequency of the activities.

4.3.3   Training and Awareness

Creating and documenting materials that are approved by department or other public body leadership is only part of the process. Individuals working on behalf of a department or other public body need to be trained and have materials accessible to them to provide continued awareness of the compliance requirements. Some areas to consider including training and awareness are noted below.

—— Onboarding Orientation

—— Annual IM Month presentations

—— Searchable materials posted to Intranet or other common space

— IM Moments at meetings

— Scheduled refresher sessions with teams

4.3.4 Implement IM Compliance Management System

A department or other public body will require documented procedures, management mechanisms, reporting and verification activities to support an IM Compliance Management System as part of the IM Program. The OCIO recommends using the implementation and management of an IM Legal and Regulatory Framework as the foundational element for managing IM compliance. A Quick Reference - IM Compliance Management System document is available on the OCIO website.

4.4 Verify IM Compliance

When establishing policy instruments and other protocols based on the IM legal and regulatory framework, it is important to consider upfront, where possible, how compliance with a specific measure will be able to be verified. In some areas, this may be easy and in others, it may be more complex.

Below are some examples of ways to verify compliance:

— Self-declaration of compliance by staff and/or management;

— Formal review;

— Supporting documentation;

— Ad-hoc assessment; and

— Detailed reports/ metrics that would highlight both compliant and non-compliant activities.

4.5 Enforce IM Compliance

To enforce compliance well-documented processes and requirements are necessary. These will have been approved by department or other public body leadership, communicated within the organization, and be part of an IM orientation and/or other IM

education and awareness information. This will support an individual's understanding of the organizational requirements, confirm the organization is meeting its requirements and allow the compliance approach to be repeatable. The metrics you establish to measure compliance against and how you measure them should be developed early and should not change. This consistency will ensure the organization and the individuals working within are well aware of how compliance will be assessed and why this function is important.

It is also important to regularly address compliance infractions. For example, if the same group is continually sharing information via email instead of using links to information the group have established a habit that may be difficult to change. Work with the leadership team for that group as well as the staff to repeat the messaging as often as necessary to secure the desired outcome.

4.6   Manage IM Compliance Performance

It is important to manage compliance performance and to track both the positive and potentially negative IM compliance results through regular reporting activities. Data analysis is necessary to determine if the information represents a trend and/or risk. Otherwise, an anomaly could signify an area to investigate further and develop actions to improve. All areas identified in the legal and regulatory framework require monitoring to support continued compliance.

As an example, if one element of compliance is to ensure clean-up of emails and regular disposition of transitory information, one compliance metric may include: regular review email account sizes for individuals. This should be assessed and reported at regular intervals to determine if there are trends (e.g. one email that continually increases) that require action (e.g. discussion, training in transitory records) or are just an anomaly (e.g. individual waiting to finalize a project to archive their records to another storage system).

Performance monitoring may include a section within the current overall IM Program Reports or as a separate report on a specific topic.   There are a number of ways to complete this section but they should all align with current IM Program Plans and performance monitoring measured established by the department tor other public body.

Examples include, but are not limited to:

⎯ Activities and projects accomplished

— Outcomes/results attained vs. outcomes/results required

4.7 Communicate IM Compliance Results

Communicating compliance to all those involved may require a number of different channels as well as varying degrees of detail. It is important to consider the information in the table below when communicating for the first time or building a communication approach for IM.

Considerations	Options
Who needs to know?	Individuals working on behalf of the department or other public body, teams, other groups, management, senior leadership, etc.
What types of information?	Detailed tables/charts of outcomes, criteria for improvement, methods to reduce risk, etc.
Most effective way to communicate?	Email, Intranet, Presentation, Memo, Summary Report, Detailed Report, etc.

Note: Any compliance information related to information breaches must follow already established protocols. This information may still appear in communications/reports but should not be the mechanism to which this information is shared with those involved in the breach protocol process.

4.8 Monitor and Verify

A review and validation of program compliance, performance and capacity are the mechanisms for monitoring and verifying IM. The IM Legal and Regulatory Framework and its components need to be lifecycle managed to ensure they are providing accurate and relevant information to the organization and assessed to validate that they continue to support IM performance and capacity development.

5.0   Roles and Responsibilities

Departments and other public bodies
— Support the department or other public body's compliance with MOIA as well as OCIO-issued policies, directives, standards and guidelines, and ensure that proper protocols are in place to properly develop and manage a records and information management system, often referred to as an IM Program.

Directors or others responsible for IM
— Promote the adoption of information governance through education and awareness in the organization.
— Develop the organization's IM legal and regulatory framework to support internal legal, regulatory and operational requirements. This includes the need to draft, obtain leadership approval, implement, communicate, publish and lifecycle manage an IM legal and regulatory framework specific to the needs and requirements of their organization.
— Ensure others in the organization are aware of their roles and responsibilities in relation to the IM legislative and regulatory framework

Office of the Chief Information Officer
As part of OCIO's administration of the Management of Information Act, the OCIO:
— Recommends to Treasury Board policies for adoption.
— Develops, manages, monitors, and communicates IM&P policy instruments and supporting materials to departments and other public bodies.
— Provides direction on IM&P best practices, resource requirements, organizational structure, recordkeeping systems and IM Programs to departments and other public bodies.
— Assists departments and other public bodies to improve their IM&P capacity.
— Provides IM&P advisory, training and awareness services and support to departments and other public bodies.
— Supports IM forums, committees, and other professional practice communities, consisting of IM representatives from departments and other public bodies.
— Manages the Provincial Records Centre (PRC).
— Provides administrative support to the Government Records Committee (GRC).

In addition, the OCIO will:

— Develop, implement and maintain this Guideline as well as the GuideBook, also known as the Guide to IM for Public Bodies.

— Provide education and awareness on the implementation of an IM Legal and Regulatory Framework.

6.0   Supporting Materials and Version History

Supporting Materials

Below is a listing of supporting materials hyperlinked to the published internet location.

Management of Information Act
http://www.assembly.nl.ca/Legislation/sr/statutes/m01-01.htm

Information Management and Protection Policy
https://www.ocio.gov.nl.ca/ocio/im/im_ip_policy.html

Access to Information and Protection of Privacy Act, 2015
https://assembly.nl.ca/Legislation/sr/statutes/a01-2.htm

Electronic Commerce Act
https://www.assembly.nl.ca/Legislation/sr/statutes/e05-2.htm

Rooms Act
https://www.assembly.nl.ca/Legislation/sr/statutes/r15-1.htm

Transparency and Accountability Act
https://www.assembly.nl.ca/Legislation/sr/statutes/t08-1.htm

Evidence Act
https://www.assembly.nl.ca/Legislation/sr/statutes/e16.htm

Financial Administration Act
https://www.assembly.nl.ca/Legislation/sr/statutes/f08.htm

OCIO Website
https://www.gov.nl.ca/exec/ocio/

Information Management and Protection (IM&P) Glossary of Terms
https://www.gov.nl.ca/exec/ocio/im/glossary/

Guide to IM for Public Bodies
https://www.gov.nl.ca/exec/ocio/im/practitioners/chart/

Version History

The following table highlights the version history of this document including date issued and version number.

Date (yyyy mm dd)	Version
2011-06-15	Version 1.0
2015-04-11	Version 2.0
2020-11-09	Version 3.0

Appendices

A listing of policy instruments, support materials including templates and examples are available on the OCIO website to guide departments and other public bodies in the development of an IM Legal and Regulatory Framework, supporting IM program development and management and the growth of IM capacity.

Appendices and references listed below directly relate to the GuideBook: IM Governance, Accountability and Organization and are published independent of this Guideline on the OCIO website, https://www.ocio.gov.nl.ca/ocio/im/practitioners/chart.html.

Appendix	Title
A	IM Legal and Regulatory Framework Guideline − Checklist
B	Quick Reference – Records and Information Management System
C	IM Legal and Regulatory Framework Matrix – Template and Example
D	IM Legal and Regulatory Framework Roles and Personnel Listing – Template and Example
E	Quick Reference - IM Compliance Management System

Other GuideBook References:
Education and Awareness for IM Professionals
IM Education and Awareness for Employees
IM Performance Measurement
IM Vision, Mission and Guiding Principles
Information Protection