

Thank you for coming. I will make a statement and then take questions.

Today's Auditor General's report highlights a long-standing issue around the protection of confidential documents.

This government inherited this issue. It is not new. The Cabinet has not considered this issue, and civil service staff were, in denying access, simply following through on long-established practice with respect to public interest immunity and solicitor-client privilege. In the fall sitting of the Legislature, we intend to introduce a legislative framework that will resolve the issues raised today by the Auditor General. We will resolve this issue once and for all.

This framework will ensure the Auditor General can effectively and efficiently carry out his duties under the Act. It will also ensure the effective operation of government, including access to privileged legal advice.

Assuming that our legislation passes, within six months these questions of access by the Auditor General will be a non-issue.

This government and the auditor general want the same thing. We have argued in the past for access, and we will ensure he gets it.

However, now that we are the government, we have a responsibility not only to grant access, but to get it right. This is a complex issue – and with the greatest respect to the Auditor General, the legal issues are more complex than he seems willing to acknowledge – and they will take a bit of time to resolve. But only until the fall sitting.

Discussions between the government and the Auditor General about revisions to the Auditor General Act have been going on for quite a while. They stopped prior to the spring sitting of the legislature simply because other legislative business needed to be dealt with. We will invite the Auditor General to resume these discussions. Among the issues on which we expect to reach agreement with the Auditor General are the protocol for handling documents that would otherwise be privileged, any limitations on his publicly referring to documents that would otherwise be privileged, and a process for resolving any disagreement over whether a document is privileged or not.

Those issues are real, and it is our joint responsibility to work them out together.

The law of the province today is that the Auditor General's powers do not extend to solicitor-client communications. That was the conclusion of Justice Wright of the Nova Scotia Supreme Court in a December 2000 decision in which this exact question was raised. He wrote: "...the Auditor General's power to compel production of documents does not extend to those protected by solicitor-client privilege." That statement could not be more clear. That is the law of the province. We are puzzled by the Auditor General's statement to the contrary in his report today.

Other provinces that provide more access to the Auditor General, such as Ontario, have a provision in their Auditor General Act expressly stating that giving documents to the Auditor General does not constitute a waiver of privilege. There is no such provision in our Auditor General Act.

We want to put the same framework, or a similar one, into our legislation, and then the documents will be turned over to the Auditor General.

I want to reiterate that our government and the Auditor General want to achieve the same thing.

The next steps are therefore as follows:

We will resume discussions with the Auditor General towards a revised Auditor General Act, which will be introduced in the fall.

We will invite the Auditor General to address the Executive Council on this issue.

Assuming we reach agreement, we will introduce legislation in the fall sitting of the House similar to legislation in other provinces.

When the legislation is in force, we will specify Auditor General to revisit his audit of NSBI and the IEF, and the provincial mental health strategy, so that he can complete them without qualification.

Thank you. I will now take your questions.