

August 3, 2017



s.40(1)

Dear  s.40(1)

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* [File #: EC/25/2017]

On June 30, 2017, Executive Council received your request, via transfer from the Intergovernmental and Indigenous Affairs Office, for access to the following records/information:

“All information regarding the restructuring of the former Labrador and Aboriginal Affairs Office into the new Office of Labrador Affairs, with the Aboriginal Affairs branch merged with Intergovernmental Affairs to create the Intergovernmental and Indigenous Affairs Secretariat. From April 1, 2016 to Feb. 23, 2017.”

The records you have requested are considered Cabinet records and a decision has been made by the Deputy Clerk of Executive Council to refuse access in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act* (the *Act*):

27. (1) *In this section, "cabinet record" means*

- (a) *advice, recommendations or policy considerations submitted or prepared for submission to the Cabinet;*
- (h) *a record created during the process of developing or preparing a submission for the Cabinet; and*

(2) *The head of a public body shall refuse to disclose to an applicant*

- (a) *a cabinet record;*

You may appeal this decision and ask the Information and Privacy Commissioner to review the decision to deny access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the decision and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

This response letter will be published following a 72 hour period after it is sent electronically to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. If you have any further questions, please contact me by telephone at 709-729-5691 or by email at rachellectutler@gov.nl.ca.

Sincerely,



Rachelle Cutler
ATIPP Coordinator

Access or correction complaint

42.(1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).