August 12, 2019

Dear [Name],

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: SNL-093-2019]

On July 26, 2019, Service NL received your request for access to the following records:


I am pleased to inform you that a decision has been made by the Deputy Minister for Service NL to provide access to the requested information.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

The Access to Information and Protection of Privacy Act (the Act) requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Act. 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.

The address and contact information of the Information and Privacy Commissioner is 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
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.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed 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. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-0071 or by e-mail at FrankWalsh@gov.nl.ca.

Sincerely,

[Signature]

FRANK WALSH
ATIPP Coordinator
Service NL
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).
ISSUE: Cannabis Impaired Driving
Service NL has strengthened its impaired driving legislation, as outlined in the Highway Traffic Act, to align with the Federal Government’s Bill C-46 and the legalization of cannabis.

ANTICIPATED QUESTIONS:
What changes have been made to prevent cannabis impaired driving?
How can officers determine if a driver is drug impaired?

KEY MESSAGES:
Impaired driving by drug is still against the law.

There is zero tolerance for novice drivers, drivers under age 22 and commercial drivers and taxi drivers.

There are more significant penalties as a result of these amendments.

SECONDARY MESSAGING:

- Police have been trained in Standard Field Sobriety Testing (SFST) as well as certified as Drug Recognition Experts (DRE).
- Training in both of these areas of expertise is always ongoing.
- An oral fluid drug testing device has been approved by the Federal Government.
- The province is planning to deploy the device on a limited basis.
BACKGROUND:

How many officers are trained in SFST and DRE?
Impaired driving by drug has been an offence for decades and that hasn’t changed with the legalization of cannabis. Members of our policing agencies have been trained in Standard Field Sobriety Testing (SFST) as well as certified as Drug Recognition Experts (DRE) -- training in both of these areas of expertise is always ongoing.

When are we deploying the new drug testing device?
An oral fluid drug testing device has been approved by the Federal Government and the province is planning to deploy the device on a limited basis. We are looking forward to more devices receiving approval from the Attorney General of Canada to provide additional options for testing.

Has the issue around the inaccuracy of this device in cold temperatures been resolved?
To our knowledge no. The device is one of several testing tools. Officers will continue to test using SFST and DRE.

What are the criminal penalties associated with driving high?
The Criminal Code penalties for impaired driving are generally the same regardless of which substance (alcohol or any drug) causes the impairment.

For simple impairment, there is a mandatory minimum sentence of:

1. A $1000 fine if it is a first offence (however, for alcohol, if the blood-alcohol concentration is between 120-160 mg/100ml of blood, the minimum is $1500 and if the BAC is above 160mg/100 ml of blood, the minimum is $2000;
2. 30 days imprisonment if it is a second offence; and
3. 120 days imprisonment if it is a third or subsequent offence.

The minimum fine for a refusal is $2000 for a first offence.

The maximum sentence is two years less a day imprisonment if the matter proceeds by summary conviction and 10 years for indictable offences. There are also mandatory periods for a driving prohibition which range from 12 months to life depending on the number of prior offences.

The Criminal Code also provides for different maximums where the offence involves impaired driving causing bodily harm (10 years) and impaired driving causing death (life imprisonment).
ISSUE: Cannabis – Workplace Safety
As part of cannabis legalization, provincial governments are responsible for ensuring workplace safety. It has been identified that no imminent changes to the Regulations are required, the Provincial Government is working with the CSA to develop standards around cannabis impairment.

ANTICIPATED QUESTIONS:
Now that cannabis is legal, how will it be controlled in the workplace?
What should an employer do should an employee be suspected of being impaired on the job?

KEY MESSAGES:
There are already provisions in OHS legislation regarding impairment in the workplace.
Being impaired at work is against the law, whether the substance is legal or not.

SECONDARY MESSAGING:
- Section 26 of the OHS regulations states: “employers, supervisors or workers shall not enter or remain on the premises of a workplace or at a job site while his or her ability to perform work responsibilities is impaired by intoxicating substances or another cause that endangers his or her health or safety or that of other workers.”

- The regulatory expectation is that employers, in consultation with the occupational health and safety committee, workplace health and safety representative or designate, develop programs which include risk assessment, policies, procedures and training in relation to impairment.

- The province, as a member of the Canadian Association of Administrators of Labour Legislation, engaged the Canadian Standards Association (CSA) to develop a standard in relation to impairment.

- The standard will contain information and outline expectations for employers and employees to develop workplace programs to address the issue/hazard of impairment (all types such as alcohol, drugs both prescription and non-prescription, fatigue and others) in the workplace.

- The standard is on target for completion in 2019.
ISSUE: Cannabis – Residential Tenancies
On October 17, 2018, cannabis was legalized in Canada. Among the regulations required to control the use of cannabis include agreements between landlords and tenants.

ANTICIPATED QUESTIONS:
How can landlords control the use of cannabis on their property?
What is the responsibility of tenants regarding cannabis use?

KEY MESSAGES:
Landlords make rules restricting the consumption of cannabis.
Landlords may also make rules about growing cannabis.
Tenants should check with their landlord about specific rules that might apply.

SECONDARY MESSAGING:
- A landlord has the right in law to set terms and conditions for the rental property and the grounds and common areas.
- Under the Cannabis Control Act, partaking of cannabis in a public place is generally prohibited.
  - You may be able to consume cannabis in hotel rooms or units in apartment buildings, subject to restrictions that may be imposed by the building owner or operator. Cannabis cannot be consumed in any of the common areas of those buildings.
  - You may be able to consume cannabis on a rented campsite, subject to restrictions that may be imposed by the park owner or operator. You may be able to consume cannabis in a vehicle that is being used as a temporary or private residence while it is not in motion or on a road.
  - You are not able to consume cannabis in a public place, a motor vehicle or a boat, similar to the restrictions on consuming alcohol.
  - A limited exception applies for medical cannabis. A person with a valid authorization to use medical cannabis under the federal Cannabis Act may consume medical cannabis in an outdoor public place where smoking or vaping is permitted by the Smoke-Free Environment Act, 2005, but cannot consume cannabis in a motor vehicle.
• If a landlord or tenant is unsure of the regulations or their rights they should seek the assistance of a residential tenancies officer.
ISSUE: Off-road Vehicle Safety
There has been recent media coverage around the safe use of ATVs and snowmobiles, including a CBC Investigates story, Fatal Fun, as well as a call from the Child Death Review Committee recommending a full review of the Act. The rules outlined in the Motorized Snow Vehicles and All-Terrain Vehicles Act require updating.

ANTICIPATED QUESTIONS:
What is the Provincial Government doing to help improve safety of off-road vehicles?  
What is the status of the review of the Act?

KEY MESSAGES:
We are committed to the safety of residents of the province.

In Newfoundland and Labrador since January 2016, there were 10 fatal snowmobile crashes investigated by the RCMP. In seven of these cases, the victim was not wearing a helmet.

During consultations on whether mandatory snowmobile helmets should be mandatory, a number of other safety concerns were raised by stakeholders and the general public.

These concerns included training requirements for off-road vehicles; age of operation for vehicles such as side-by-sides; operation of vehicles on municipal roadways; and body size requirements for safe operation.

The latest report from the Child Death Review Committee also recommended a full review of the Act and Regulations.

As such, we will conduct a full review of the Act and propose changes to enhance safety.

SECONDARY MESSAGING:

- The Provincial Government is committed to the safety of residents of the province, while also recognizing the value of outdoor activities.

- A review of the Act and Regulations will help find ways to improve snowmobile and ATV safety, as well as other off-road vehicles.

- Further enhancing safety for snowmobile and ATV users aligns with the Provincial Government’s ongoing commitment to improved vehicle safety in the province which is evident through the numerous changes to the Highway Traffic Act.
ISSUE: Real Estate Trading Act - Update
A Bill to amend the Real Estate Trading Act was brought forth in the House of Assembly during the Spring sitting, but due to an election being called the Bill was not passed.

ANTICIPATED QUESTIONS:
Where is the Bill and when will it be passed?

KEY MESSAGES:
The Bill, An Act to Amend the Real Estate Trading Act, will be re-introduced to the House at the earliest convenience.

Changes to the Real Estate Trading Act support our government’s commitment to increased consumer protection for the people of the province.

They include:

- streamlined release of trust deposits and a mechanism for aged trust deposits;
- restriction of a licensed real estate person from providing both real estate and mortgage brokerage services;
- introduction of a Code of Conduct;
- requirement for Errors and Omissions insurance;
- establishment of personal real estate corporations, and
- establishment of a real estate recovery fund to be financed by industry members.

The act also allows for increased fines and penalties; provides authority for the Superintendent of Real Estate Brokers and Salespersons to impose terms and conditions on a licence; and also allows for the establishment of continuing education requirements.

The amendments help ensure the legislation is relevant and is meeting the needs of industry stakeholders.
ISSUE: Offshore Safety
Oil and gas development in the offshore arena is a hazardous environment, where strong Occupational Health and Safety (OHS) regulation and enforcement is critical.

ANTICIPATED QUESTIONS:
How does government plan to help ensure the safety of offshore workers?

KEY MESSAGES:
Protection of the environment and worker safety in our offshore are priorities for this government.

We are seeking nominations for the first Offshore Occupational Health and Safety Advisory Council.

We have been trying to recruit potential candidates for the Board for some time now through the Independent Appointments Commission, but have not received an adequate response.

We also reached out to stakeholders and asked them to share the information regarding the Council positions.

The Council will provide advice and expertise on occupational health and safety matters and work to help strengthen regulations in the offshore.

We are an active participant in the development of permanent offshore occupational health and safety regulations.
QP Issue Note

Service NL

ISSUE: Occupational Health and Safety (OHS)
A number of new work sites have been erected throughout the province over the past year. With this development comes increased responsibility as leaders, employers, and employees to ensure our workplaces are safe and ensuring compliance at existing work sites.

ANTICIPATED QUESTIONS:
What is being done to ensure the safety of workers in this province?

KEY MESSAGES:
The OHS division of Service NL works with employees, employers, and WorkplaceNL to promote and ensure safety.

There have been significant improvements in workplace safety in our province. In 2017, the lost-time injury rate, at 1.5 injuries per 100 workers, was the lowest it has ever been.

This reduction can be attributed to:
- better health and safety education;
- improved OHS legislation;
- increased enforcement; and
- a greater development of OHS management programs and systems.
- Improvements in equipment design, training standards and awareness of workplace hazards have also contributed.

We made changes to the Regulations this year to capture incidents regarding worker-on worker violence, as well as provisions related to harassment in the workplace, which were not previously included.

We adopt a zero tolerance approach to violations under the OHS Act and Regulations.

SECONDARY MESSAGING:

- By maintaining high safety training standards and practices we can experience safe and tragedy-free days at our work sites.

- Through our regulatory and inspection activities, OHS is doing its part to improve safety at worksites.

- OHS has been significantly enhanced over the past decade to accommodate our province’s tremendous rate of growth.
QP Issue Note
Department of Service NL
June 17, 2019

ISSUE – Rigolet Gas Bar:
Rigolet’s only gas station is closing, after more than 13 years of being operated at a loss by the Rigolet Inuit community government. When the community took over the station more than a decade ago, the intention was that it would be an interim measure, and that a private interest would take over the business.

ANTICIPATED QUESTIONS:
Has the Provincial Government been in contact with representatives from the community of Rigolet about the closure of its only gas station?
Will government take any action to help Rigolet?

KEY MESSAGES:
The Provincial Government has been in communication with representatives from the Nunatsiavut Government about the closure of the gas bar.
The Nunatsiavut Group of Companies has an arrangement to take over the existing gas station.
Service NL has completed an environmental inspection of the station. The department is working with the community to ensure the registration of their tanks is all up to date.
The only permit required for a new operator is a Gasoline Retailer Licence from the Department of Finance, and government and the community are working collaboratively on this matter.
ISSUE: School Bus Safety
The issue of school bus safety has received significant attention following the Humboldt crash and after several local accidents involving school buses. The Fifth Estate also did an investigative piece that revealed a study by Transport Canada that said high-backed, padded seats on school buses did nothing to help children in side-impact and rollover crashes.

ANTICIPATED QUESTIONS:
How safe are school busses? How often are school busses inspected?

KEY MESSAGES:

School busses throughout Newfoundland and Labrador are held to an extremely high standard.

School busses are subject to rigorous inspection requirements.

Stronger enforcement measures led to a pass rating of 92.5% in 2018 (up from 84.4% in 2016).

There were changes made to the enforcement strategy that included:

- operational changes and legislative changes
- changes to the Official Inspection Station Regulations to increase penalties for mechanics and garage owners who falsify inspection reports;
- Highway Enforcement Officers inspect 100% of the bus fleet between August and October and have aggressively pursued violators;
- several bus operators and their official inspection stations have been successfully prosecuted which has an impact on the industry.

SECONDARY MESSAGING:

- In 2016, amendments were made to the Official Inspection Station Regulations.
- These changes provide officials with stronger enforcement and reporting tools.
- School busses are required to be inspected by an Official Inspection Stations twice annually.
- Highway Enforcement Officers inspect the entire fleet in the fall, and a minimum of 30% of the fleet in the spring of the year.
- These include both announced and unannounced inspections.
ISSUE: Home Inspections
In December of last year, the Province announced it would begin a review of the outdated Real Estate Trading Act, which has not been amended since 1965. In anticipation of the review the Newfoundland and Labrador Association of Realtors held town hall meetings throughout the province. Recently the issue of lack of regulations for home inspections came up in the media.

ANTICIPATED QUESTIONS:
Why are home inspections not regulated?
What is the status of the review of the Real Estate Trading Act?

KEY MESSAGES:
We are currently awaiting a proposal from the real estate boards.
If there are concerns we are always willing to listen.
We encourage anyone purchasing a home to obtain an inspection before final sale.

SECONDARY MESSAGING:
- There would be a number of issues and concerns around regulation to address including: standards, costs, availability for rural areas and training of home inspectors.
- Consumers should ensure the individual performing the service is qualified, experienced and dependable and ask for references or check with the Better Business Bureau.
- Businesses that serve consumers in Newfoundland and Labrador are required to comply with the Consumer Protection and Business Practices Act.
- Service NL has received very few consumer complaints about home inspection services.
- We are always open to reviewing any matter that may be of concern to the residents of the province.
QP Issue Note
Service NL

ISSUE: Commercial Driver Training
After the Humboldt Broncos crash in Saskatchewan on April 6, 2018 involving a coach bus and a semi-trailer concerns have been raised about the licencing of commercial drivers. The Canadian Trucking Alliance has called much of the country’s truck licensing system inadequate and is calling for mandatory training for new truck drivers.

ANTICIPATED QUESTIONS:
Will this province implement required training for commercial drivers?

KEY MESSAGES:
As agreed upon at the Council of Ministers responsible for Transportation and Highway Safety meeting in January 2019, a standard for entry-level training for commercial drivers in Canada will be developed by January 2020.

Motor Registration Division also recently completed a review of training standards and is in the process of making recommendations on potential changes to the program.

We are working to develop mandatory training through SkillsPass NL.

SECONDARY MESSAGING:
There are currently two options available to become a commercial driver in NL:
• Driver training course specific to commercial vehicles through a driving school that is registered and its curriculum overseen by the Department of Advanced Education Skills and Labour; or
• Non-formal stream that requires
  o A medial standard that has to be met for all commercial drivers;
  o A knowledge test in relation to commercial vehicles and their operation; and,
    o A practical assessment of driving skills
• Also, in order to apply for a commercial drivers licence a driver needs to have a minimum of 33 months of driving experience (eight months to one year as a novice driver, who can only drive with an accompanied driver; one year as a novice driver unaccompanied; and, one full year with a Class 5 licence).
• The province works collaboratively with other jurisdictions in Canada on issues that are pan-Canadian in nature.
• We will continue to do so in respect to commercial trucking and other road safety issues.
ISSUE: Buildings Accessibility
Service NL has been directed to undertake a review of the Buildings Accessibility Act. Since it was introduced in 1981, the Act has only received minor amendments.

ANTICIPATED QUESTIONS:
Where does the review of the Act currently stand?
When can the public expect to see changes to the Act?

KEY MESSAGES:
A key component to safe and sustainable communities is improving accessibility and equity.

We committed to a two-phased approach to a review of the Buildings Accessibility Act, with the first phase being amendments to Regulations we introduced in Fall 2017.

I met with Buildings Accessibility Advisory Board (BAAB) on January 29, and the Board has met on its own since then and have completed a review of the Act.

The next meetings for the Board are scheduled for July 30 and 31, at which time they will meet with the business community to discuss accessibility.

SECONDARY MESSAGING:

- Amendments were made to the Buildings Accessibility Regulations and the Designated Mobility Impaired Parking Regulations in October 2017 (first phase).

The 2017 amendments to the regulations include:
- Requirement for new and renovated buildings to have power door operators;
- Fines increased to $400-$700 for illegally parking in a blue zone;
- Requirement for van-sized accessible parking spaces;
- Increased percentage of parking spaces required to be accessible;
- Increased number of accessible units in an apartment complex with more than four units;
- Requirements for improved accessibility in public washrooms; and
- Clarification of counter height requirements to ensure counters in public buildings are accessible.
• Accessibility is more than just meeting minimum building codes.
• We must listen to those who truly know and understand the challenges.
ISSUE: Auto Insurance
Newfoundland and Labrador has the highest automobile insurance rates in Atlantic Canada. In April 2019, legislation was passed in the House of Assembly to help stabilize insurance rates and provide better value to the residents of the province.

ANTICIPATED QUESTIONS:
How will the new legislation benefit customers, the taxi industry?

KEY MESSAGES:
We developed a suite of measures that will provide the best product possible for consumers.

We engaged the PUB to help inform our actions to stabilize insurance rates.

We also met with representatives from the insurance industry, legal community and taxi industry.

Automobile insurance problems cannot be solved with one solitary solution and in one day.

Rather, it requires a suite of solutions like our government brought forward that, together, will help us realize stability in the area of auto insurance.

SECONDARY MESSAGING:

• Bill 3 – An Act to Amend the Automobile Insurance Act and Bill 6 – An Act to Amend the Insurance Companies Act has received Royal Assent.

• Government provided the Terms of Reference to the Board of Commissioners of Public Utilities (PUB) to conduct public consultations.

• Service NL conducted its own consultations, including the exploration of issues outside the scope of the PUB’s mandate.

• We have already taken many measures to improve highway safety and automotive accident prevention.
BACKGROUND INFORMATION:

Some of the key changes to the legislation include:

- increase in the deductible from $2500 to $5000 for bodily injury claims;
- introduction of treatment protocols for common injuries as the primary payer;
- no access to the Uninsured Automobile Fund for losses by uninsured motorists;
- requirement for insurance companies to notify the Registrar of Motor Vehicles of the cancellation or expiration of insurance policies;
- direct compensation for property damage;
- changes to procedural rules for motor vehicle collision claims to help resolve claims faster; and,
- proposed changes to the rate setting process to increase competition.

- The majority of the amendments to the Automobile Insurance Act we have introduced today will come into effect on **January 1, 2020**.
- In terms of the diagnostic and treatment protocols changes, we want to ensure adequate time for us to consult with health professionals and also allow industry time to make their necessary changes to their processes, so a **date will be determined**.
- The provision which prohibits uninsured drivers from accessing the uninsured automobile fund and receiving compensation for non-economic losses will come into effect **August 1, 2019**.