

October 7, 2019

COR/2019/082496

Dear Applicant:

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #: HCS/124/2019]

On September 27, 2019, the Department of Health and Community Services (the Department) received your request for access to the following records:

"I would like to receive the reports commissioned by the department to look at board governance as well as report under the department's Respectful Workplace policy looking at bullying and harassment which were instigated in fall of last year and any accompanying documentation."

Please be advised that access to this information has been refused under the following exceptions of the *Access to Information and Protection of Privacy Act* (the Act);

Legal advice

30. (1) *The head of a public body may refuse to disclose to an applicant information:*
(a) *that is subject to solicitor and client privilege or litigation privilege of a public body; or*
(b) *that would disclose legal opinions provided to a public body by a law officer of the Crown.*

Information from a workplace investigation

33. (2) *The head of a public body shall refuse to disclose to an applicant all relevant information created or gathered for the purpose of a workplace investigation.*

Disclosure harmful to personal privacy

40. (1) *The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.*

Please be advised that a series of recommendations to Labrador-Grenfell Health have been publically released and are enclosed for reference. 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



Government of Newfoundland and Labrador
Department of Health and Community Services

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*.

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 contact the undersigned by telephone at 709-729-7010 or by email at MichaelCook@gov.nl.ca.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Cook".

Michael Cook
Manager of Privacy and Information Security
/Enclosures

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).

Recommendations for Labrador-Grenfell Health Authority

1. The Board education planned for April 2019 should proceed as planned
2. The newly established Governance Committee should be fully empowered by the Board to oversee necessary changes in Board processes that enable a focus on issues of strategic importance.
3. As a result of the process of interviews with two Board members in particular, they individually acknowledged that they were wearing a “customer” hat and not an “ownership” hat. This cannot and should not continue.
4. LGH bylaws and policies should be updated. This is a reasonable role of the Governance Committee.
5. The Board, in the near term, should create its own code of conduct.
6. The Board’s agendas should be recrafted to ensure more discussion of matters related to the LGH’s strategic plan and results reporting.
7. The Board should conduct a competency assessment of each of the current Board members. This should help identify learning needs and enable the Board to develop a learning plan.
8. Accreditation Canada’s Governance Standards provide important direction for achieving excellence in governance practices. A thorough Board education session about these standards should occur in the short term.
9. On an immediate basis, the Board, perhaps through the Governance Committee, should establish performance goals for CEO for the next twelve (12) months.