Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: HCS/078/2017]

On August 14, 2017, the Department of Health and Community Services received your request for access to the following records:

“All briefing notes, emails and other correspondence between January 1, 2017 to August 14, 2017, related to potential fee changes regarding the Well Baby Care Visit code within the MCP Payment Schedule, and Well Baby Care check ups provided by Public Health, as a potential area of cost saving.”

Please be advised that a decision has been made by the Deputy Minister for Health and Community Services that access to these records has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

Section 27 – Cabinet Confidences

These records have been identified as ‘Cabinet Records’ as defined by ATIPPA (2015) and as such have been withheld in their entirety under s.27(2)(a), s.27(1)(c) and s.27(1)(h). Section 27 wording is enclosed.

Please be advised that 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 request and why you are submitting the appeal.
The appeal may be addressed to 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  
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).

Please be advised that this letter will be published following a 72 hour period after it 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 letter 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 709-729-7007 or by email at BlaineEdwards.nl.ca.

Sincerely,

[Signature]  
on behalf of

Blaine Edwards  
Manager of Privacy and Information Security
27. (1) In this section, "cabinet record" means

(a) advice, recommendations or policy considerations submitted or prepared for submission to the Cabinet;

(b) draft legislation or regulations submitted or prepared for submission to the Cabinet;

(c) a memorandum, the purpose of which is to present proposals or recommendations to the Cabinet;

(d) a discussion paper, policy analysis, proposal, advice or briefing material prepared for Cabinet, excluding the sections of these records that are factual or background material;

(e) an agenda, minute or other record of Cabinet recording deliberations or decisions of the Cabinet;

(f) a record used for or which reflects communications or discussions among ministers on matters relating to the making of government decisions or the formulation of government policy;

(g) a record created for or by a minister for the purpose of briefing that minister on a matter for the Cabinet;

(h) a record created during the process of developing or preparing a submission for the Cabinet; and

(i) that portion of a record which contains information about the contents of a record within a class of information referred to in paragraphs (a) to (h).

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

(a) a cabinet record; or

(b) information in a record other than a cabinet record that would reveal the substance of deliberations of Cabinet.

(3) Notwithstanding subsection (2), the Clerk of the Executive Council may disclose a cabinet record or information that would reveal the substance of deliberations of Cabinet where the Clerk is satisfied that the public interest in the disclosure of the information outweighs the reason for the exception.

(4) Subsections (1) and (2) do not apply to

(a) information in a record that has been in existence for 20 years or more; or

(b) information in a record of a decision made by the Cabinet on an appeal under an Act.
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).