



February 1, 2019

s.40(1)



Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act CSSD-01-2019

On January 4, 2019, the Department of Children, Seniors and Social Development received your request for access to the following records/information:

Information notes, decision notes, analyses, and/or other background or briefing materials - in any and all formats, including paper and electronic - related to the decision to transfer \$11,422,700 from the Contingency Reserve to the department in late March 2018. The budget line Subdivision 2.1.01.09 Child and Youth Services (Allowances and Assistance) received \$10,879,900, and the budget line Subdivision 2.1.01.10 Child and Youth Services, (Grants and Subsidies) received \$542,800.

Through January 14-16, by phone email correspondence, you provided clarification regarding your request and specified the following:

- You did not want email correspondence regarding the above subject
- You only required documents that discussed and/or explain the decision to transfer \$11,422,700 from the Contingency Reserve to the department in late March 2018

Please be advised that a decision has been made by the Minister of Children Seniors and Social Development that access to these records has been refused in accordance with the mandatory exceptions to disclosure as specified in the Access to Information and Protection of Privacy Act, ATIPPA 2015 under Section 27 – Cabinet Confidences:

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

(a) a cabinet record; or

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

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

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

(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;

On March 29, 2018, an Order in Council was issued to CSSD, authorizing the transfer of funds from

the Contingency Reserve. Please see attached copy of this record. Also access to this document can be obtained on the Provincial Government of Newfoundland and Labrador's website at the following link. <https://www.exec-oic.gov.nl.ca/public/oic/details?order-id=9163>.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial 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).

For Government Departments:

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) 729-6370 or by e-mail at michellemurray@gov.nl.ca.

Sincerely,



Michelle Murray B.A., B.S.W., M.S.W.
Program & Policy Development Specialist/ATIPP Coordinator
Department of Children, Seniors and Social Development
P.O. Box 8700 St. John's, NL A1B 4J6

Cabinet confidences

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).

Orders in Council Database

Order Details

Order Number:

OC2018-064

Order Date:

2018-03-29

Department:

Children, Seniors and Social Development

Authority:

Supply Act

Order Text:

Under the authority of subsection 4(5) of the Supply Act, 2017, the Lieutenant-Governor in Council is pleased to authorize the transfer of funds up to a maximum of \$11,422,700 million from the Contingency Reserve as follows:

- a. to Department of Children, Seniors and Social Development, Subdivision 2.1.01.09 Child and Youth Services (Allowances and Assistance) - \$10,879,900; and
- b. to Department of Children, Seniors and Social Development, Subdivision 2.1.01.10 Child and Youth Services, (Grants and Subsidies) - \$542,800.

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Disclaimer

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Last Updated: February 1, 2019

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Executive
Council



Newfoundland
and Labrador

*Certified to be a true copy of a Minute of a Meeting
of the Committee of the Executive Council of Newfoundland and
Labrador approved by His Honour the Administrator on*

2018/03/29

s.27(2)(a), s.27(1)(i)

OC2018-064

CSSD/DM
TB/Secretary
FIN/DM
AG
Deputy Clerk
File

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Deputy Clerk of the Executive Council