



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2025-018

March 25, 2025

### Northern Peninsula Regional Service Board

**Summary:**

The Northern Peninsula Regional Service Board failed to respond to multiple access requests made by the Complainant within the required timeframes under the Act, prompting complaints to this Office that NPRSB did not uphold its duty to assist. The OIPC found NPRSB to be in clear violation of its legal obligations and recommended that it respond to the requests, comply with statutory duties, apply for extensions when needed, undergo access and privacy training, and improve communication with this Office.

**Statutes Cited:**

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c. A-1.2, sections 2, 12, 13, 16, and 109.

**Authorities Relied On:** NL OIPC Report [A-2022-013](#); [Access to Information Policy and Procedure's Manual](#).

## BACKGROUND

- [1] The Complainant submitted several access to information requests to the Northern Peninsula Regional Service Board (“NPRSB”) between November 2024 and January 2025 seeking the following:

I am requesting the names of all management employees. Include the details of the employees remuneration. This should include but not limited to, salary and benefits. Also include the same for non-management employees as well. I do not want the names of non-management employees. Please include a job title for ALL employees and job descriptions. (request dated November 5, 2024)

I am requesting a list of board members. This list should include all current board members and any members that served on the board for any part of the calendar year 2024. I am requesting a record of all remuneration made to each individual member. I am also requesting a list and complete breakdown of all expenses incurred by each of the board members on the list that you provide. (request dated December 29, 2024)

Several days ago I requested copies of NPRSB meeting minutes. As I have not received anything from you, I am now making an ATIPP request. Please provide copies of all NPRSB meeting minutes that have taken place since June of 2024. (request dated January 8, 2025)

- [2] Pursuant to section 16 of the **Access to Information and Protection of Privacy Act, 2015** (the “**Act**”), NPRSB’s final responses to the Complainant’s access requests, consisting of its decision letter and accompanying responsive records, were due within 20 business days of receipt of each request. The Board did not apply to the Commissioner for approval to extend the time for responding to any of the requests which meant the Board was expected to respond to these requests by December 4, 2024, January 28, 2025, and February 5, 2025, respectively. Upon expiration of the statutory deadlines without final responses from NPRSB to the requests, the Complainant filed complaints with this Office.

- [3] The NPRSB is a non-profit board established by the Lieutenant Governor in Council under the **Regional Service Boards Act** and the **Northern Peninsula Regional Service Board Order**. It is managed by a board of directors drawn from the municipal councils of the local communities. Its chair is appointed by the Lieutenant-Governor in Council.

- [4] As NPRSB has yet to provide final responses to the Complainant to these access requests, informal resolution was unsuccessful. The Complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

### **PUBLIC BODY'S POSITION**

- [5] Our Office contacted NPRSB on several occasions and requested that it make submissions in response to the three complaints. No submissions were received from NPRSB.

### **COMPLAINANT'S POSITION**

- [6] The Complainant submits that NPRSB has failed to respond to the above-noted access requests within the legislative time frame under section 16 (time limit for final response) and subsequently failed to uphold section 13 (duty to assist). A concern over their anonymity under section 12 was also raised by the Complainant as it relates to access requests being submitted to the Board for their review.

### **ISSUES**

- [7] There are several issues to be addressed in this report, including whether NPRSB has properly designated a head for the purposes of the Act, and whether it has complied with sections 12, 13, and 16.

### **DECISION**

#### Anonymity

- [8] The Complainant advised when they submitted their first access request on November 5, 2024, they received a telephone call from NPRSB inquiring why they were requesting this information and for what purpose. The Complainant was then advised that the request would be sent to the Board for review. This raises the concern that rather than being processed by the NPRSB's ATIPP Coordinator, the Complainant's access requests were being shared with members of the Board as a whole.

[9] Section 12 of the Act requires that a public body protect the privacy of an access to information applicant:

12.(1) The head of a public body shall ensure that the name and type of the applicant is disclosed only to the individual who receives the request on behalf of the public body, the coordinator, the coordinator's assistant and, where necessary, the commissioner

Deemed Refusal (Section 16)

[10] Section 16 of the Act states:

16.(1) The head of a public body shall respond to a request in accordance with section 17 or 18, without delay and in any event not more than 20 business days after receiving it, unless the time limit for responding is extended under section 23.

(2) Where the head of a public body fails to respond within the period of 20 business days or an extended period, the head is considered to have refused access to the record or refused the request for correction of personal information.

[11] Clearly, the NPRSB failed “to respond within the period of 20 business days or an extended period” with respect to these requests. As they did not respond to the requests within the deadline set out in section 16, nor did they apply to our Office for any time extensions pursuant to section 23, NPRSB has, per section 16(2), “considered to have refused access to the record” in relation to the access to information request.

Duty to Assist (Sections 13, 15 and 16)

[12] Pursuant to section 13, a public body has a duty to assist an applicant who makes access to information request:

13. (1) The head of a public body shall make every reasonable effort to assist an applicant in making a request and to respond without delay to an applicant in an open, accurate and complete manner.

[13] The ATIPP Office has produced an [Access to Information Policy and Procedures Manual](#) which accurately reflects the views of this Office as stated in [A-2022-013](#). This Manual defines the duty to assist while setting some general obligations that it may include such as:

- providing the necessary information to an applicant so that they may exercise their rights under the Act;

- clarifying the request with an applicant, where necessary;
- performing full and adequate searches for records responsive to an access request; and
- responding to an applicant openly and without delay.

[14] At the time of this Report, the Complainant advises they still have not received any communication from the NPRSB, aside from an initial phone call referenced previously. There are several points throughout the timeframe of a request where a public body is expected to communicate with an applicant and do so without delay. For this particular request, it would have been reasonable for the Complainant to expect an acknowledgement letter when each request was submitted; and an advisory response per section 15 on or before day 10 to provide an update on the status of each request, advise it is still being worked on, and, in particular, to advise the Complainant as soon as it became apparent that it would be unable to respond to the requests within the legislative timelines as outlined in section 16 of the Act. NPRSB has not communicated with the Complainant in an open matter without delay, and in failing to do so also did not provide any necessary information to them on how they may exercise their rights under the Act.

[15] NPRSB has not provided a response to any of their requests and has not provided submissions to our Office, so it is likely, in consideration of all the above-noted circumstances, that no search for records has been conducted.

[16] The Complainant alleges receiving a phone call upon submitting their first access request from NPRSB inquiring why they were requesting this information and for what purpose. We remind NPRSB that the public has a right, under law, to make an access to information request to a public body and NPRSB in turn has an obligation under law to respond in accordance with the Act. Public bodies are required to process access requests in a manner that is impartial, transparent and free from unnecessary barriers. Since the purpose of the access request has no bearing on whether an applicant has a right to the records, there is no justifiable reason to collect such information. NPRSB is required to either grant the request or refuse it where the Act permits or requires such a refusal.

[17] We acknowledge that smaller public bodies, such as NPRSB, often operate with limited resources and may face challenges in responding to access to information requests. Nevertheless, simply ignoring requests and communications from our Office is not an option under the Act. NPRSB's conduct in this matter demonstrates a flagrant disregard for its legal obligations, undermining the fundamental principles of transparency and accountability that the Act is meant to uphold. Public bodies are not without support. There are several tools and resources available to assist in fulfilling access to information responsibilities. The ATIPP Office offers training opportunities specifically designed for municipalities and small public bodies, providing guidance on compliance with the Act. Additionally, this Office is available to provide clarification on the Act and its processes. Furthermore, if a public body lacks the capacity to respond to a request within the statutory timeframe, the Act provides mechanisms to accommodate such challenges, including the ability to request a time extension to this Office under section 23 of the Act. It is imperative that public bodies utilize these available resources rather than neglecting their legal duties. Compliance with the law is not optional, and public bodies must take proactive steps to ensure they are meeting their legal obligations.

#### Designating a Coordinator and Head

[18] In our requests for submissions, we asked the NPRSB to identify who is their ATIPP Coordinator or head of the public body for the purposes of the Act. As noted above, we have not received a response from the NPRSB. The ATIPP Office has advised us that they similarly have not been provided this information by the NPRSB. The relevant portions of the Act are as follows:

#### 2. In this Act

...

(j) "head", in relation to a public body, means

...

(v) in another case, the person or group of persons designated under section 109 or in the regulations as the head of the public body;

...

109. (1) A local public body shall, by by-law, resolution or other instrument, designate a person or group of persons as the head of the local public body for the purpose of this Act, and once designated, the local public body shall advise the minister responsible for this Act of the designation.

[19] Along with being necessary for several important administrative functions associated with processing an access request, it is important for a public body to identify its coordinator and head to ensure that only the designated individuals have access to personal information about an access to information applicant. It is possible that the Board is the head of the public body, as section. Section 109(1) does state it can be a group of persons. If the Board is the head of the public body, our Office recommends that NPRSB staff processing access requests ensure anonymity of its applicants when providing requests for the board's review, as section 12 explicitly states that the name and type of applicant is only to be disclosed to the individual who receives the request on behalf of the public body and to certain others where it is necessary in order to process and respond to the request (such as requests for an applicant's own personal information). The NPRSB's failure to designate a head as required under the Act has caused unnecessary confusion for the Complainant as it relates to the processing of their access requests, as well as our Office during the investigatory process.

## RECOMMENDATIONS

[20] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015** (the "Act"), we recommend that the Northern Peninsula Regional Service Board:

1. No later than 20 business days of receiving this Report, provide a response to the Complainant's three access requests, enclosing copies of all records responsive to the requests, subject to any necessary redactions.
2. If it has not already done so, designate a head and a coordinator no later than 20 business days of receiving this Report.
3. Comply in future with the statutory duties imposed upon it by sections 13, 15, and 16 of the Act.

4. Apply for extensions of time where appropriate and as soon as it becomes evident a request cannot be processed within the 20 business days provided by the Act, and
5. Within 30 business days of receipt of this Report, make arrangements for training from the provincial ATIPP Office about the statutory requirements and procedures for responding to access to information requests and complaints for the Head of the Public Body, the ATIPP Coordinator, and any other staff who may be involved in processing access to information requests, and
6. Commit to full and open communication with this Office on future investigations including timely responses to notification letters and requests for records within the legislated time periods.

[21] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Northern Peninsula Regional Service Board must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[22] Dated at St. John's, in the Province of Newfoundland and Labrador, this 25<sup>th</sup> day of March 2025.



Kerry Hatfield  
Information and Privacy Commissioner  
Newfoundland and Labrador