



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2026-006

March 18, 2026

Department of Forestry, Agriculture and Lands

Summary:

The Complainant made an access to information request to the Department of Forestry Agriculture and Lands (then the Department of Fisheries Forestry and Agriculture) for records related to the development of new legislation. The Department sought and received two extensions of time from this Office and provided a final response of “no responsive records” four days after the final deadline. The Complainant was not satisfied with this response and made a complaint to the Office. The Commissioner found the Department did conduct a reasonable search per section 13 but did not fully meet its duty to assist per sections 13 and 16 in that the response was not provided within the required time period.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 13, 16 and 27.

Other Resources:

OIPC Practice Bulletin: [Reasonable Search](#), March 2017

BACKGROUND

- [1] The Complainant made an access to information request to the Department of Fisheries Forestry and Agriculture (now the Department of Forestry Agriculture and Lands) under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”), as follows:

I am requesting access to any records, documents, correspondence, briefing notes, draft legislation, internal communications, and any other materials related to the development, consideration, and implementation of a proposed "Resource Enforcement Act" and/or "REO Act" within the Department's Resource Enforcement Division (RED).

This request includes, but is not limited to: policy documents and legislative drafts; internal memos and emails discussing the Act; consultations with other departments and stakeholders; any timelines, planning documents, and status updates. Please include records from January 1, 2022, to present.

- [2] The Complainant clarified the request in follow up communications with the Department by agreeing to exclude all cabinet records from the search.
- [3] The Department applied for, and this Office approved, two extensions of time allowing for an additional 25 business days to provide a final response to the request. Despite these extensions, the Department was four days late in providing a final response. In that response, the Department advised there were no responsive records.
- [4] The Complainant was not satisfied with either the timing or the content of the response and filed a complaint with this Office.
- [5] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

ISSUES

- [6] Did the Department meet its obligations under sections 13 and 16 of the Act?

DECISION

- [7] On the issue of the Department's late final response, it is certainly unacceptable that after the 25 additional days approved by this Office, the Department took a further four days to provide a final response of "no responsive records". Given that there were no responsive records it does not seem reasonable that the Department required more than 45 business days to provide a final response.
- [8] Slightly mitigating the late final response is the fact the Coordinator communicated with the Complainant to advise of the delay and kept the Complainant informed. We consider this to be the minimum standard when a response is going to be late. However, any delay past the approved extended statutory deadline is not permissible and violates the duties required of the Department by the Act.
- [9] With respect to the Department's response that there are no responsive records, when an applicant believes additional records should exist but were not provided, we consider it a reasonable search complaint. Our Practice Bulletin on [Reasonable Search](#) outlines that a reasonable search is one conducted by knowledgeable staff in locations where the records in question might reasonably be located. The standard for assessing a public body's efforts is "reasonableness," not perfection.
- [10] The Department provided a description of the search it conducted for responsive records. The Department's search was conducted by knowledgeable staff in the locations where records were reasonably likely to be located. Resource Enforcement Division Staff conducted a search of its electronic records system and email, using the keywords "Resource Enforcement Act", "RE Act", "RED Act", "Resource Enforcement Legislation", within the timeframe of January 1, 2022, to October 2, 2025. The Department has provided sufficient evidence to conclude that a reasonable search was conducted.
- [11] The real issue is that all records which the Department located were deemed by the Department not responsive to the request as they were all classified as cabinet records, which the Complainant had agreed to exclude from the scope of their request. Section 27 of the Act

is broad, covering a wide range of records, including drafts, working documents, emails, and supporting materials generated as part of the Cabinet submission process. As the cabinet submission process is ongoing, all records located were classified as “cabinet records.” The Department did re-review the records and consulted with the Access to Information and Protection of Privacy Office to confirm that none of the records fell outside of the scope of the definition of “cabinet records” and confirmed that all of the records were cabinet records and thus not responsive to this request.

RECOMMENDATIONS

- [12] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I find that the Department has conducted a reasonable search for records under section 13. Therefore, I recommend that the Department maintain its position on this matter.
- [13] Further, under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I find that the Department did not meet its duties under section 16 or under section 13 with respect to responding to an access request on time. I therefore recommend that the Department comply in the future with the duties imposed on it by sections 13 and 16.
- [14] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Department of Forestry Agriculture and Lands 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.

[15] Dated at St. John's, in the Province of Newfoundland and Labrador, this 18th day of March 2026.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador