



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

Report A-2026-008

March 26, 2026

## Department of Social Supports and Well-Being

### Summary:

The Complainant made an access request to the Department of Social Supports and Well-Being for records about their income support file, communication related to their advocacy work, and any internal communications involving them. The Department provided responsive records, withholding information under section 40 (disclosure harmful to personal privacy) of the **Access to Information and Protection of Privacy Act, 2015**. The Complainant claimed that the Department had failed to conduct a reasonable search for records and had misapplied the exceptions to access. This Office found the Department had conducted a reasonable search and had appropriately applied section 40. It was therefore recommended that the Department continue to withhold the redacted information.

### Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 9, 13, and 40.

Authorities Relied On: NL OIPC Report [A-2025-006](#).

## BACKGROUND

- [1] The Complainant submitted an access to information request to the Department of Social Supports and Well-Being under the **Access to Information and Protection of Privacy Act, 2015** (the “**Act**”), for their income support file, communication related to their advocacy work, and any internal communications involving them from October 2023 to present.
- [2] The Department responded by providing partial access to the records, but withheld some information, citing the exception to access in section 40 (disclosure harmful to personal privacy). The Complainant proceeded to file a complaint with this Office asserting that the exception in section 40 was not properly applied and the Department had failed to conduct a reasonable search for records.
- [3] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act. The Information and Privacy Commissioner, Kerry Hatfield, delegated authority for this matter to me, as Director of Research and Quality Assurance, pursuant to section 103 of ATIPPA, 2015.

## PUBLIC BODY'S POSITION

- [4] The Department maintains that it appropriately withheld information under section 40(1) and no information belonging to the Complainant was redacted.
- [5] The Department also maintains that a reasonable search was conducted and there are no further responsive records.

## COMPLAINANT'S POSITION

- [6] The Complainant alleges that the records contain extensive redactions that go beyond protecting personal privacy and instead obscure how decisions are made.

- [7] The Complainant also asserts that further records must exist as the records disclosed contain references and timelines that reasonably suggest broader internal communication and circulation than what was produced. The Complainant maintains that through access to information requests to other government departments they have received records confirming internal discussion of their name and activities, and records referencing communications and observations which would logically involve the Department of Social Supports and Well-Being.
- [8] The Complainant also argues, in relation to section 9, that the public interest in disclosure of the information outweighs the reason for the exception, particularly where the records relate to the administration of public services and the Department's response to public advocacy.

## ISSUES

- [9] The issues to be addressed in this Report are:
- a. whether the Department properly applied section 40 of the Act;
  - b. whether a reasonable search for records was conducted; and
  - c. the application of the public interest override in section 9.

## DECISION

### Section 40(1)

- [10] Section 40(1) of the Act states:

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

- [11] Personal information is defined under section 2 of the Act as, "recorded information about an identifiable individual." The information at issue consists of names, contact information, and addresses of third parties, as well as individual signatures. Section 40(2) contains a list of circumstances in which the disclosure of personal information would be deemed not an unreasonable invasion of personal privacy, however none of those circumstances apply here. Section 40(5) sets out a non-exhaustive list of circumstances to aid in determining whether

disclosure of the personal information that the Department has withheld under section 40(1) would or would not be an unreasonable invasion of a third party's personal privacy. In considering all of the relevant circumstances, it is clear that the personal information withheld by the Department would be an unreasonable invasion of privacy if disclosed.

### **Section 13(1) – Duty to Assist**

[12] Section 13 of the Act imposes on public bodies a duty to assist access to information applicants:

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 aspect of section 13 at issue is whether the public body responded in a complete manner to the Complainant's request for information by conducting a reasonable search for records.

[14] The standard to be applied to a search for records by a public body has been stated in many past Reports. Recently in Report [A-2025-006](#) this Office stated:

The Act does not require the public body to prove with absolute certainty that records do not exist. The public body must provide evidence to show that it has made a reasonable effort to locate records responsive to the request. A reasonable search is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request. The standard is not perfection, but one of reasonableness.

[15] During our attempts to resolve this matter informally, we determined that the keywords used to conduct the initial search for records may not have fully captured all areas of the request; namely records relating to the Complainant's advocacy work. A preliminary recommendation was made to the public body to conduct another search using additional keywords so as to fully cover the scope of the request. The Department agreed and conducted an additional search. No additional responsive records were found.

[16] From our review of the Department's submissions on how the search was conducted, and in light of the completion of an additional search, this Office is satisfied the Department conducted a reasonable search for responsive records. The Department has met its duty to assist the Complainant.

### **Section 9 – Public Interest Override**

[17] The Complainant has also argued that the information is of public interest as it relates to the administration of public services and the Department's response to public advocacy.

[18] As described in section 9, the public interest override can only apply to certain listed exceptions to access. The override is not applicable to any information withheld pursuant to section 40 of the Act.

[19] However, under subsection 40(5), a public body, in determining whether a disclosure would constitute an unreasonable invasion of personal privacy, must consider all of the relevant circumstances. This includes consideration of circumstances such as whether disclosure of the information would be desirable for the purpose of subjecting the activities of the public body to public scrutiny. So, while the public interest override in section 9 does not apply to section 40, there remains an opportunity in section 40(5) to consider the public interest in appropriate circumstances.

[20] As noted above, however, none of the relevant circumstances under section 40(5) would lead to a conclusion, in this particular matter, that any of the personal information withheld under section 40(1) should be disclosed.

### **RECOMMENDATIONS**

[21] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the Department of Social Supports and Well-Being maintain its position on this matter and continue to withhold the information pursuant to section 40.

[22] 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 Social Supports and Well-Being 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.

[23] Dated at St. John's, in the Province of Newfoundland and Labrador, this 26<sup>th</sup> day of March 2026.



Sean Murray  
Commissioner's Delegate  
Office of the Information and Privacy  
Commissioner  
Newfoundland and Labrador