OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2026-037

November 19, 2026

Department of Health and Community Services

Summary: The Complainant made an access request to the Department of Health and Community Services for records relating to errors or potential errors in the Health Human Resources Plan. Despite three approved extensions of time, the Department did not provide a response. The Complainant filed a complaint with this Office. The Commissioner found that the Department had not provided a satisfactory explanation for why it had failed to meet its statutory responsibilities, and recommended that the Department provide a final response, including all responsive records, within 10 business days.

Statutes Cited: Access to Information and Protection of Privacy Act, 2015, SNL 2015, c A-1.2, sections 3, 8, 16, 17, 23.

Authorities Relied On: NL OIPC Reports A-2017-010, A-2023-003, A-2023-004, A-2023-010.

BACKGROUND

[1] The Complainant made an access request to the Department of Health and Community Services under the **Access to Information and Protection of Privacy Act, 2015** ("the **Act**"), dated March 18, 2026 for:

> All records, including but not limited to communications, about errors and potential errors in the Health Human Resources Plan. In addition to any other search terms deemed appropriate for the search, please also include the terms "Deloitte" and "AI" and "artificial intelligence". Date range: Nov. 25, 2025 to March 18, 2026.

[2] The Department applied to this Office and received approval for three successive extensions of time to respond to the request, which were dated April 13, May 13, and June 29, 2026. The June Notice of a Third Extension to the Complainant advised that the records would be provided by August 21, 2026.

[3] The responsive records were not provided by that date, and the Complainant therefore filed a complaint with our Office dated August 24, 2026.

[4] As of the date of drafting of this report, the records still had not been provided to the Complainant.

[5] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

PUBLIC BODY'S POSITION

[6] In the Department's initial response to this complaint, dated September 8, 2026, it stated:

> HCS currently has approximately 66 active requests – the amount of time available to spend on each request will vary from week to week, depending on the workload of the coordinators. Since this request was received, HCS has:
> - Received 105 new requests;
> - Closed 103 requests; and
> - Received 37 consults from other public bodies;

> The ATIPP Office has devoted additional resources to the department in an effort to assist in meeting legislative timelines. Since January, 2026, two new full-time ATI coordinators have been assigned to the department; and additional part-time resources have been temporarily assigned to assist with both new requests and requests that are currently late. Best efforts are being made to complete this request as soon as possible.
>
> . . .
>
> The coordinator continues to review over 1100 pages that remain.

[7] In a further submission dated October 8, 2026, after this complaint file had been referred to formal investigation under section 44 of the Act, the Department stated:

> To confirm our earlier conversation, HCS/92/2026 responsive package has increased to 3,366 pages of which the initial redactions have been applied. I am currently completing the final review of redactions (fitting it in along with my other 17 active case files) and will be preparing necessary consultations. Unfortunately, HCS is not able to provide a response date at this time; however, once consultations have been sent, HCS may be in a better position to provide a due date.

[8] On November 10, 2026, the last day for formal submissions, HCS sent a one-sentence email stating:

> We anticipate that this request will be provided to the applicant by November 23, 2026.

COMPLAINANT'S POSITION

[9] In the complaint filed on August 24, 2026 the Complainant stated:

> My request is more than five months old now and the department was granted three extensions.
>
> . . .
>
> I would appreciate having my request prioritized and a more specific (than "once finalized") return date shared with me. If the delay is a result of being under-staffed or under-resourced, I would like the ATIP Office to request appropriate funding in order to meet its legislative requirements.

DECISION

[10] It must be emphasized that under section 8 of the Act, a person who makes an access request has a **right of access** to a record in the custody or under the control of a public body. While there are provisions in the Act that place certain limitations on its exercise, that right must not be otherwise abridged or circumvented.

[11] The Act further provides, in section 16, as follows:

> 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.
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> (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.

[12] There is a process under section 23 of the Act, in which a public body may apply to our Office for approval to extend the above 20-day time limit:

> 23 (2) The commissioner may approve an application for an extension of time where the commissioner considers that it is necessary and reasonable to do so in the circumstances, for the number of business days the commissioner considers appropriate.

[13] This access request will have been in process for 250 days, or over 8 months, by the current estimated delivery date of November 23, 2026. This is despite the fact that the Department, during this period, had three assigned ATIPP Coordinators, and the work of those three positions was overseen by a Senior Coordinator, assisted by the ATIPP Office. Of those 250 days, 88 days in total are accounted for by the three approved time extension requests.

[14] Several years ago there was a period in which this Department had a record of serious failures to meet its statutory responsibilities in dealing with ATIPP requests. Our Report A-2023-003 described a refusal to cooperate with this Office, resulting in the issuing of a summons, and a Court-ordered extension of the statutory deadline for completing a complaint investigation. Reports A-2023-004 and A-2023-010 also resulted from complaints in which

the Department failed to provide a response to access requests within the statutory time limit (referred to as "deemed refusals").

[15] In 2024 and 2025, however, the Department's performance appears to have been reasonably satisfactory. It is clear that the Department has had a heavy workload of access requests, but has been managing it well. By its own submission it has processed 103 other access requests since receiving the present request. In that context this file therefore stands out as a major anomaly. The inordinate delay in processing this particular request cannot be explained simply by a high volume of access requests, heavy workload or staffing problems. It is not clear why this request was not given the necessary allocation of resources in order to complete it within a comparable time span to the other requests.

[16] It is also not clear why, instead of the originally-estimated 1,000 pages of responsive records, there now are stated to be over 3,000 pages "potentially responsive" to this access request, which covers only a 4-month period.

[17] The subject matter of this request has received a great deal of public scrutiny, and in fact the use of artificial intelligence by public bodies is a matter of ongoing public interest. Therefore, one might have expected that the disclosure of information about its use would be a priority for public bodies. Instead, the Department appears to have treated this request with a marked lack of urgency. There has been no real explanation for why this particular request has taken so long and has effectively been placed "on the back burner" despite being the subject of a complaint.

[18] Delays in processing access requests may sometimes be caused by an unexpectedly large volume of requests, or by the need to review very large numbers of responsive records. Delays may also be the result of unanticipated staffing issues. Such problems can be expected from time to time, and the Act provides for procedures to deal with them.

[19] Delays may also be caused by excessive time devoted to executive review, or by unnecessary external consultations. While such matters are not, strictly speaking, procedural, they may be dealt with through a combination of professional education and policy development.

[20] Cases like the present are a different matter. Requests for successive lengthy time extensions for a particular file, which do not result in disclosure but instead are followed by further unjustified delays, may legitimately raise a public suspicion that extensions may be part of a tactic to indefinitely delay the disclosure of politically sensitive records.

[21] Section 3 of the Act begins by describing two of the important purposes to be achieved by the Act as follows:

> 3. (1) The purpose of this Act is to facilitate democracy through
>
> (a) ensuring that citizens have the information required to participate meaningfully in the democratic process;
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> (b) increasing transparency in government and public bodies so that elected officials, officers and employees of public bodies remain accountable;

[22] In our Report A-2017-010 involving the Department of Justice, we stated:

> [26] ... the Supreme Court of Canada has signalled the importance of access and privacy legislation such as the *ATIPPA, 2015* by declaring that it has quasi-constitutional status. For any public body to deal with an access to information request in the way that the Department has done would be a matter of serious concern.

[23] The concerns that led to the above conclusion are reflected in the present case. Transparency and accountability are fundamental principles. Lengthy unjustified delays in responding to access requests undermine the core purposes of the Act, and inevitably result in public disillusionment and cynicism, not only about the value of the right of access to information, but about the democratic process that it is intended to serve.

RECOMMENDATIONS

[24] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the Department of Health and Community Services:

1. No later than 10 business days after receiving this Report, provide a response to the Complainant's access request, enclosing copies of all records responsive to the request, subject to any necessary redactions;

2. Comply in future with the statutory duties imposed upon it by sections 8, 13, 16 and 23 of the Act.

[25] 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 Health and Community Services 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.

[26] Dated at St. John's, in the Province of Newfoundland and Labrador, this 19th day of November, 2026.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador