



REVIEW REPORT 025-2021, 079-2022

Ministry of Social Services

May 12, 2022

Summary: The Applicant filed two access to information requests with the Ministry of Social Services (Social Services). Upon receiving responses from Social Services to the two requests, the Applicant was not satisfied that all the responsive records were located and requested a review by my office. The Commissioner found Social Services did not conduct an adequate search for records. The Commissioner recommended that Social Services conduct a new search for records by completing the [Responsive Records Search Checklist](#), provide a copy of the completed Checklist to the Applicant and if it locates any additional records that are responsive to the Applicant's two access to information requests, it provide those records to the Applicant subject to any exemptions.

I BACKGROUND

[1] The Applicant made the following access to information request to the Ministry of Social Services (Social Services) on November 26, 2020:

My name is [Applicant] and my current client number is I am currently on the SIS [Saskatchewan Income Support] programs but I have been on SAP [Saskatchewan Assistance Program] in the past.

I would like access to my entire file including all names and times of every time someone has accessed my file. I would also like copies of all correspondence [sic] between myself and [Social Services] (electronic or postal). I would also like access to any internal emails and correspondence [sic] between employees and managers discussing my file

[2] By letter dated December 10, 2020, Social Services responded to the request and advised the Applicant the following (in part):

... Please find attached records responsive to your request. Please note that, pursuant to section 8 of *The Freedom of Information and Protection of Privacy Act* (FOIP), some of the information contained in the attached records has been severed. Section 29(1) [of FOIP] states that we cannot release other individuals' personal information without their consent. Some information contained in the attached records has been severed (blanked-out) because it is personal information about an identifiable individual

[3] This letter also advised the Applicant of their right to request a review by my office.

[4] On January 4, 2021, the Applicant filed a second access to information request to Social Services requesting access to:

I have recently received my complete file but it appears that many communications between myself and my caseworker in North Battleford are not included in my file. I would like to recover copies of all the emails between myself and [Caseworker]. The emails would include either of these two email addresses: [Email 1]@hotmail.com or [Email 2]@hotmail.com. These emails would have occurred between September 2016 and February 2018.

[5] By letter dated January 21, 2021, Social Services responded to the Applicant's second request, advising in part:

Thank you for your access to information request received in this office on January 4, 2021...

We have confirmed with Income Assistance Programs that all information requested in the form of emails within their area were provided to you through access request ... in December 2020.

[6] By email on February 1, 2021, the Applicant requested a review by my office. The reason for the Applicant's review outlined in the email was:

This is my second time asking for these emails....

In my complete Social Services file that I received in December I discovered that many of my emails to my caseworker were not included. [Caseworker] was issuing me money with no documentation to explain why the reimbursements were happening

[7] My office reached out to Social Services by email on February 2, 2021 to inquire if they had any additional records/emails to be released. By email on February 5, 2021, Social

Services advised my office that they, "... do not have any additional records to release to [the Applicant]."

- [8] By emails on February 19, 2020, my office notified Social Services and the Applicant that my office would be undertaking a review of this matter and invited both parties to make a submission. In the notification email to Social Services, my office asked:

...In your submission please explain how [Social Services] searched for the requested records. In addition to the overall search efforts, please speak specifically to the search and/or absence of the emails between [Applicant] and [Applicant's] caseworker in North Battleford between September 2016 and February 2018

- [9] Social Services provided my office with its submission on September 29, 2021, and advised that my office could share the search strategy portion of the submission with the Applicant. Upon review of the search strategy, the Applicant contacted my office and advised they still wished to continue with the review.

II RECORDS AT ISSUE

- [10] As this review considers Social Services' search efforts, there are no records at issue.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

- [11] Social Services is a "government institution" pursuant to section 2(1)(d)(i) of *The Freedom of Information and Protection of Privacy Act* (FOIP). Therefore, I have jurisdiction to conduct this review.

2. Did Social Services conduct a reasonable search to locate records?

[12] Section 5 of FOIP clearly outlines that access to records must be granted if they are in the possession or under the control of a government institution unless an exemption applies. Section 5 of FOIP provides:

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a government institution.

[13] The *Guide to FOIP*, Chapter 3, “Access to Records”, updated June 29, 2021 (*Guide to FOIP*, Ch. 3) discusses how searches for records should be conducted by government institutions starting at page 7.

[14] 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. A “reasonable effort” is the level of effort you would expect of any fair, sensible person searching areas where records are likely to be stored. What is reasonable depends on the request and related circumstances (*Guide to FOIP*, Ch. 3, p. 7).

[15] When a government institution receives a notification letter or email from my office requesting details of its search efforts, some or all of the following can be included in the submission to my office (*Guide to FOIP*, Ch. 3, p. 9):

- For personal information requests – explain how the individual is involved with the government institution (i.e. client, employee, former employee etc.) and why certain departments/divisions/branches were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and explain how the employee(s) is experienced in the subject matter.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.

- Describe how records are classified within the records management system. For example, are the records classified by alphabet, year, function and/or subject?
- Consider providing a copy of your organization's record schedule and screen shots of the electronic directory (folders & subfolders).
- If the record has been destroyed, provide copies of record schedules and/or destruction certificates.
- Explain how you have considered records stored off-site.
- Explain how records that may be in the possession of a third party but in the government institution's control have been searched such as a contractor or information management service provider.
- Explain how a search of mobile electronic devices was conducted (i.e. laptops, smart phones, cell phones, tablets).
- Explain which folders within the records management system were searched and how these folders link back to the subject matter requested. For electronic folders – indicate what key terms were used to search if applicable.
- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee's search.
- Consider having the employee that is searching provide an affidavit to support the position that no record exists or to support the details provided.

(*Guide to FOIP*, Ch. 3, pp. 9-10):

[16] In addition to the above, my office's resource, [*Responsive Records Search Checklist*](#) (Checklist), can assist government institutions in documenting their search efforts in detail. When an employee is asked to search for records, the Checklist can be provided to each employee that searches for responsive records. For example, when searching for electronic records, the checklist will ask the employee to detail the following:

- List of files searched.
- Date completed.
- Time taken to search.
- Number of records located.

- Keywords used.

[17] The completed Checklist can be provided to an applicant if they question whether an adequate search was conducted. It can also be provided to my office as part of a government institution's supporting documentation where there is a review of search efforts.

[18] In its submission, Social Services asserted it took the following steps when searching for records responsive to the Applicant's requests:

Background:

The Ministry received an access to information request to the Ministry of Social Services on November 26, 2020 (IA3583/20-21) requesting access to the applicant's entire file, specifically all Income Assistance (IA) records including correspondence between [Applicant] and the ministry (electronic and postal) and other identified records. This request was completed with 761 pages of responsive records released on December 10, 2020.

The Ministry received a subsequent access request on January 4, 2021 (IA3630/20-21) for email communications between the applicant using the email addresses of: [Email 1]@hotmail.com or [Email 2]@hotmail.com and caseworker ... between the dates of September 2016 and February 2018.

Record Search:

The Manager of Records and Privacy completed the following:

1. January 8, 2021 – Reviewed the 194 pages of email communications provided to the Applicant under request IA3583/20-21;
2. January 8, 2021 – Reviewed the released file above to ensure all such records were included in the released package; determined 194 of the 761 pages were copies of email communications and attachments within the timeframe identified by the applicant;
3. January 11, 2021 – Followed up with the IA [Income Assistance] Service Delivery Manager in the North Battleford office to validate the practice related to email communications between workers and clients;
4. January 11, 2021 – Received confirmation from the IA Service Delivery Manager regarding email practice which involves any relevant email records printed for filing in the client paper file as well as confirmation that, in this case, any email records related to this file and this case worker would have been appropriately filed at the time of the initial request. The Manager also confirmed a search of the worker's emails was not possible as the identified caseworker

had not worked with the ministry for three years at the time of request. Any emails not included in the client file are unavailable.

The file in question had been closed and sent to off-site storage at the time of request. Ministry records management process require any loose filing in the file room to be placed in the appropriate case file prior to storage off-site. Therefore, the file room would not have any outstanding filing for this record.

IA document guidelines require that workers document all discussions and communications pertaining to specific topics including intakes, annual reviews, changes to case plans, budget changes, special needs, transfers and closures, in the Social Worker Information Network (SWIN) as a Case Chronological History (CACS) log. This involves the worker creating a record (chrono) in SWIN that documents the discussion/decision related to any of the identified topics. The guidelines specifically indicate that emails are not to be copied into a chronological recording without the author's consent. While a common practice, there is no policy or requirement for emails between a client and a worker to be printed and placed on the client's file, as any impact to benefits would be captured in a chronological recording and follow-up letter on official letterhead.

With the implementation of the new Saskatchewan Income Support program (SIS), email has become the common form of communication with clients and emails are captured and housed in the new software system.

We have confirmed the responsive records released for IA3583/20-21 included 50 pages of chronological case logs as well as 194 pages of emails and attachments; many of the chronological recording correlate with the emails provided to the client in the initial access request.

Conclusion:

The responsive records provided to the applicant included records using both the email addresses are all the communications available and were provided in a timely fashion. No additional records were found, nor do we believe they exist. If additional records did exist at one time, they were transposed into the CACS and recorded through that method.

- [19] The above search efforts provided by Social Services outlines a lot of what the guidelines state in terms of records management and offsite storage. However, it lacks the granular details of the search such as who searched, where did they search, how long did they search, and what search parameters were engaged when they searched (such as keywords in electronic records).

[20] In their February 1, 2021 request for review, the Applicant asserted:

... I discovered that many of my emails to my caseworker were not included. [Caseworker] was issuing me money with no documentation to explain why the reimbursements were happening. Hopefully we can dig a little deeper and find these emails.

[21] Furthermore, when Social Services responded to the Applicant's second request on January 21, 2021, it advised the Applicant:

...We have confirmed with the Income Assistance Programs that all information requested in the form of emails within their area were provided to you through your access request ... in December 2020.

[22] From a review of the second request, it was clear that the Applicant did not feel all of the responsive records had been provided.

[23] When Social Services received and responded to the Applicant's second access to information request, Social Services could have outlined its search strategy to the Applicant. Alternatively, it could have engaged with the Applicant to determine why the second request was filed.

[24] As Social Services documented search efforts provided to my office and the Applicant did not include the granular details of its search efforts, I find Social Services did not conduct a reasonable search for records. I recommend that Social Services conduct a new search for records by completing the [Checklist](#), provide a copy of the completed Checklist to the Applicant and if it locates any additional records that are responsive to the Applicant's two access to information requests, it provide those records to the Applicant subject to any exemptions.

IV FINDING

[25] I find Social Services did not conduct a reasonable search for records.

V RECOMMENDATION

[26] I recommend that Social Services conduct a new search for records by completing the [Checklist](#), provide a copy of the completed Checklist to the Applicant and if it locates any additional records that are responsive to the Applicant's two access to information requests, it provide those records to the Applicant subject to any exemptions.

Dated at Regina, in the Province of Saskatchewan, this 12th day of May, 2022.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner