Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 200-2024

Rural Municipality of Reford No. 379

April 21, 2025

Summary: The Applicant submitted an access to information request to the Rural Municipality of Reford No. 379 (RM) under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The RM applied a 30-day extension pursuant to section 12 of LA FOIP, which the Applicant asked the A/Commissioner to review. Then, the RM responded to the Applicant providing access to records. The Applicant indicated that they were no longer concerned with the RM's extension of time; however, they were not satisfied as they believed that additional records related to their request should exist and asked the A/Commissioner to review the RM's search efforts. The A/Commissioner found that the steps taken by the RM to search for records to be reasonable. However, to find some resolution in this matter, the A/Commissioner recommended that, within 30 days of the issuance of this Report, the RM search for all the items noted by the Applicant, as outlined in this Report, and issue a new section 7 decision regarding the outcome of the search.

I BACKGROUND

[1] On July 15, 2024, the Applicant emailed an access to information request under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) to the Rural Municipality of Reford No. 379 for the following records:

> I am requesting my complete Personnel File covering [date of Applicant's reinstatement of employment] through to today, July 15th, 2024.

[2] The Applicant noted in their email that they would provide payment the next day. My office was provided with a copy of the receipt from the RM to the Applicant confirming payment of the $20 application fee on July 16, 2024.

[3] On July 18, 2024, the RM advised the Applicant that it was applying a 30-day extension to its response period pursuant to subsections 12(1)(a)(i), (ii) and (b) of LA FOIP.

[4] On August 19, 2024, the Applicant requested a review by the A/Commissioner, disagreeing with the RM's need for a 30-day extension.

[5] On August 26, 2024, the Applicant advised my office, by email, that the RM had responded to their request on August 22, 2024. The RM's section 7 decision letter advised that the RM was releasing the Applicant's personnel record, and the RM attached a copy of the records. In their email, the Applicant expressed concerns that the RM did not include records in their personnel file that it should have included.

[6] On August 27, 2024, the Applicant indicated to my office that they were no longer concerned with the RM's extension of time; however, they believed the RM's search efforts were not appropriate. The Applicant included details to support why they believe additional records should exist and a list of records they felt the RM should have included in their personnel file.

[7] On September 5, 2024, my office shared the Applicant's list of records with the RM. My office also asked the RM for copies of documentation or policies it has that outline the types of records it retains on a personnel file. Alternatively, if the RM did not have formal documentation, then my office asked for a list of the types of records it typically keeps on a personnel file. On September 12, 2024, my office advised that if the RM was not able to provide this information by the following day, September 13, 2024, my office's review would proceed. As the RM was not able to meet this deadline, my office decided to proceed to issuing notice of a review to the RM and to the Applicant.

[8] On September 19, 2024, my office notified the RM and the Applicant that my office would be undertaking a review of the RM's search efforts. My office also requested that the RM provide details about the types of records the RM typically retains on a personnel file. My office also asked the RM to outline any steps it had taken to develop a records management policy for records related to employees.

[9] On October 21, 2024, the RM provided its submission to my office. The RM stated that my office could not share the submission with the Applicant.

[10] On November 5, 2024, the RM released additional records to the Applicant. On November 18, 2024, the Applicant advised my office that they were still not satisfied with the records they received as they believed additional records were missing from their personnel file. The Applicant attached a list of additional documents they anticipated the RM would include. On December 11, 2024, the Applicant identified further documentation that was referenced in records the RM had released to them. The Applicant indicated they also expected this documentation to be in their personnel file.

II RECORDS AT ISSUE

[11] There are no records at issue as this is a review of the RM's search efforts.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[12] The RM qualifies as a "local authority" as defined by subsection 2(1)(f)(i) of LA FOIP. Therefore, I find that I have jurisdiction to conduct this review.

2. Did the RM conduct a reasonable search for responsive records?

[13] Section 5 of LA FOIP provides an applicant with a right of access to records in the possession or control of a local authority. It states:

> **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 local authority.

[14] The *Guide to LA FOIP*, Chapter 3, "Access to Records", updated May 5, 2023 (*Guide to LA FOIP*, Ch. 3), at page 12, provides that 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.

[15] When a local authority receives a notice of review from my office requesting details of its search efforts, some or all of the following can be included in the local authority's submission (not exhaustive):

- For personal information requests – explain how the individual is involved with the local authority (i.e., client, employee, former employee, etc.) and why certain departments/divisions/branches/committees/boards were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches/committees/boards 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 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, provides 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 or a third party but in the local authority'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. For more on this, see my office's resource, *Using Affidavits in a Review with the IPC*.

(*Guide to LA FOIP*, Ch. 3, at pp. 14-15)

[16] Regarding how it searched, the RM provided my office with copies of two documents titled "Responsive Documents Search" (search document) that contain a table outlining its search efforts on two different dates, August 22, 2024 and October 7, 2024. The first search would have occurred when the RM received the Applicant's access request. The second search would have occurred when the RM was preparing its submission for this review, and after my office shared (on September 5, 2024) what additional records the Applicant felt should have been included in their personnel file. Each search document outlines that the RM conducted searches on an electronic file folder using the keyword "personnel" and the Applicant's first and last name. Each search resulted in the RM locating no records. In its second search on October 7, 2024, the RM searched the Administrator's and Assistant's email folders using the Applicant's last name. This also resulted in the RM locating no records. Finally, as part of each search, the RM searched its paper files where it stores personnel records. The RM stated that the first search for records took one hour, and the second took four hours.

[17] In past reports dealing with the RM's search efforts (Review Report 275-2024, Review Report 336-2023, Review Report 071-2024), I have outlined what details the RM could provide to my office to substantiate its search efforts. I am encouraged that in this review the RM has provided my office with documentation that details how it conducted its search. Based on the RM's explanation, I find that the steps taken by the RM to search for records to be reasonable.

[18] However, what I need to consider in this review is what records the Applicant seeks and if there is a way to efficiently resolve what records they expected that the RM would provide. After the Applicant received their initial response and records from the RM on August 22, 2024, they indicated the following to my office by email on August 27, 2024 regarding why they believe more records should exist than were located:

> …I do not believe the R.M.'s efforts to locate records responsive to my request were appropriate. My concern is that either records have been destroyed, or lost, or are being deliberately withheld. The reason I believe this is… because back on January 11th, 2023, I sent in an Access to Information Request for my personnel file. Due to both my lack of knowledge and inexperience with Requests, as well as the change over in administrative staff, and a new inexperienced, student Acting Administrator, nothing was truly handled very well… because it was well over the 30 day deadline, receiving a response on March 6… I submitted a second Access Request to the R.M. - again - for my Personnel File on March 13th, 2023. I was still not told by the Acting Administrator that I had to pay right away, so I ended up paying both the processing fee and the deposit amount on the same day, March 21st, 2023. I received the R.M.'s response in full on April 6th, 2023, with the letter stating that my request had "been fully granted".
>
> What I received then, and what I have received now, are two very different things. Included in my first Request were emails, my certifications, notes from the then-Administrator, copies of letters I had submitted to Council in [year specified by Applicant], Blue Cross paperwork, MEPP paperwork, tax paperwork, SARM enrollment papers, along with my original offer of employment letter and contract. Bearing in mind that that original Access Request covered the period of time from [the Applicant's date of hire] (date of hire) to [date of Applicant's termination of employment] (date I was wrongfully terminated).
>
> OH&S did an investigation based on my discriminatory action complaint, and the R.M. was forced to reinstate me. The Access Request I submitted on July 15th, 2024 covered the same time period and the time since I was reinstated, [date of Applicant's reinstatement of employment] until July 15th, 2024 when I made the Request. It goes to say that I should have received the same information that was in my first package

given by the Acting Administrator in April 2023, plus all of the new items since my reinstatement.

[19] To their email, the Applicant attached a list of some of the records they expected to be included in their request, which my office shared with the RM (with the Applicant's permission) on September 5, 2024, as follows:

- a copy of all my Harassment Grievances that I have submitted since my reinstatement, along with the Investigative Report and Summaries from my first Harassment Complaint in January 2024.
- a copy of all the emails/correspondence from the OH&S officers/R.M. representatives to me, and my responses.
- a copy of all my [type of notes and correspondence] notes/correspondence since going on [type of leave], [start date of Applicant's leave].
- a copy of the year's wages the R.M. had to pay me.
- a copy of the emails from ZEL Safety and the SCSA.
- a copy of all my certifications (both from before and all the new ones I obtained).
- my responses to all 'corrective measures' Memos.
- the cover email to MEMO allegedly sent by Administrator [name of individual A].
- copies of Administration notes when correspondence was "vetted through legal counsel."
- emails I submitted outlining OH&S matters since my reinstatement.
- copies of the WhatsApp correspondence between Council members and administrative staff where I am discussed.

[20] On November 5, 2024, the RM released additional records to the Applicant. The RM stated, "in an effort towards early resolution for this review, please file attached copies of benefits records, payroll records and vacation records." In its submission to my office, the RM explained what types of records (that the Applicant sought) would be part of a personnel file and those records that would not be part of a personnel file. In its response to the Applicant, however, the RM does not appear to have provided this type of detail and has

resulted in the Applicant believing they are not getting the records they should. To note, the RM provided my office the following descriptions of what would or would not be in a personnel file as follows:

Records that would be in a Personnel File	Records that would not be in a Personnel File
• Employment application and resume • Offer letter or employment contract • Performance evaluations • Disciplinary actions or records • Benefit records • Vacation requests, other time off records • Emergency contact information • Termination or exit documentation	• Harassment Grievances (unless an investigation outcome deems corrective measure(s)) • OH&S communications and certifications • Medical leave records, due to their sensitive and confidential nature, are filed separate from the personnel record in sealed envelopes • Payroll records • Administration notes • Administration and general communications

[21] In addition, in its submission, the RM noted the following regarding the records the Applicant identified as missing from their personnel record:

> …
> - Year's Wages
>
> - Paystubs indicate year-to-date earnings; applicant was provided this information in normal payroll processing. RM employees are given instructions to access their paystubs online and can do so anytime.
>
> - Cover Email to MEMO ([name of individual A])
>
> - The memo was inadvertently filed in the personnel file. Through searching email records, it was determined that administration personnel never emailed the record prior to the applicant's [type of leave] leave [start date of Applicant's leave].
>
> …
> - WhatsApp Correspondence
>
> - A search through the WhatsApp records did not contain personnel matters.

[22] After the RM provided the Applicant with additional records on November 5, 2024, the Applicant advised my office that they were still not satisfied. On November 18, 2024, and December 11, 2024, the Applicant further identified to my office what records they believed were still missing as follows:

- copies of all my submitted harassment grievances from November 16, 2023, through to [date of Applicant's termination of employment].
- copies of all the investigative reports, witness notes and summaries from these grievances covering November 16, 2023 through to [date of Applicant's termination of employment].
- copies of all communication from the R.M. OH&S officers and R.M. Council Representative to me, along with my responses (this should be from [name of individual A], [name of individual B] and [name of individual C]).
- copies of my responses to all Corrective Measures MEMOs.
- copy of the cover email for the Written Reprimand from [name of individual A] BKOTT Consultant, dated February 9, 2024 (I have searched my emails thoroughly and have no record of ever receiving this memo).
- copies of all CAO [last name of RM CAO] notes when she "*vetted correspondence through legal counsel.*"
- a copy of CAO [last name of RM CAO] notes from my reinstatement meeting.
- copies of my communication to the R.M. outlining the outstanding OH&S matters from November 11, 2023 through to [start date of Applicant's leave].
- copies of WhatsApp and Outlook Teams communication between Council members and CAO [last name of RM CAO] where I am the subject of discussions.
- copy of the Appeal letter sent to OH&S Legal Department in September 2023, appealing their August 2, 2023 Decision.
- copies of all write-ups on me from either rate payers, Council members, or other employees, that I was called into the office to sign (CAO [last name of RM CAO] makes reference to this in my Termination Letter of [date of termination letter]).
- copy of form sent to MEPP by CAO [last name of RM CAO] with "*[type of leave] leave*" incorrectly recorded as the reason I was off from [the date leave started] forward to [the date leave ended].

- record identified as missing in December 11, 2024 email regarding communication with Applicant's legal counsel related to the Harassment Investigation: "As I was going through one of the Harassment Reports provided by the RM, I noticed that in the CONCLUSION that "through evidence gathered from the Respondent that there was communication between the RM and the legal representative of the Complainant."

[23] Again, based on what types of records the RM states would be on a personnel file, most of the records the Applicant outlines in the paragraph above would not exist on their personnel file.

[24] Subsection 5.1(1) of LA FOIP places a duty on local authorities to assist applicants. The *Guide to LA FOIP*, Ch. 3 at page 30, provides that local authorities should make reasonable efforts to not only identify and seek out records responsive to an applicant's access to information request, but to explain the steps in the process and seek any necessary clarification on the nature or scope of the request within the legislated timeframe.

[25] In this case, the RM did not explain to the Applicant what records would be on a personnel file, which resulted in the Applicant continuing to question why certain records were missing. To understand the scope of what records the Applicant sought, it may have been helpful for the RM to provide this information. It is encouraging that the RM did provide the Applicant with additional records on November 5, 2024, and that it has turned its mind towards what records should be included in a personnel file. And having a records management policy is an easy way to advise applicants of what types of records would be found on a personnel file.

[26] Page 37 of the *Guide to LA FOIP*, Ch. 3, further provides that the applicant should make a reasonable effort to assist the local authority in responding accurately and completely. Open communication between an applicant and a local authority is recommended, particularly when an access request is all-encompassing or unclear. In this case, the Applicant submitted a request to the RM for their "complete Personnel File" and based on their communications with my office, anticipated a number of specific records to be included in the scope of that request. Had the RM and the Applicant openly communicated

about what records would be included within the scope of the request, it could have prevented the Applicant's concerns about records they viewed as missing from their request.

[27] In my office's Review Report 071-2024, I had recommended the RM review and revise its policies and procedures that will help it comply with its obligations under LA FOIP. In this regard, I recommend that the RM continue to develop its policies and procedures for responding to access to information requests. These policies and procedures should also address its records management practices. In developing these policies and procedures, I draw the RM's attention to my office's resource, *Improving Access and Privacy with Records and Information Management*.

[28] As previously noted, many of the records identified by the Applicant as missing from their personnel record, are records that the RM has stated would not be included in a personnel record. I do note a few exceptions, which I base on the RM's descriptions of what would be included in a personnel file. These would be records related to "disciplinary actions or records," "termination or exit documentation" and "offer letter or employment contract", which the Applicant has outlined as "missing" as follows:

> ***From those records identified by the Applicant on September 5, 2024:***
>
> - my responses to all 'corrective measures' Memos
>
> ***From those records identified by the Applicant on November 18, 2024*:**
>
> - copies of all write-ups on me from either rate payers, Council members, or other employees, that I was called into the office to sign (CAO [last name of RM CAO] makes reference to this in my Termination Letter of [date of Applicant's termination of employment])
> - a copy of CAO [last name of RM CAO] notes from my reinstatement meeting
> - copies of my responses to all Corrective Measures MEMOs

[29] As stated earlier in this Report, based on the documentation the RM provided to my office, I find the steps taken by the RM to conduct its search to be reasonable. To bring this matter

to some resolution and avoid repeated back and forth on this matter, however, I recommend that, within 30 days of the issuance of this Report, the RM search for all the items noted by the Applicant as outlined at paragraphs [19] and [22] of this Report and issue a new section 7 decision regarding the outcome of the search. This may help the RM avoid having the Applicant submit new access requests for any records the RM states are not included in a personnel file.

IV FINDINGS

[30] I find that I have jurisdiction to conduct this review.

[31] I find that the steps taken by the RM to search for records to be reasonable.

V RECOMMENDATION

[32] I recommend that, within 30 days of the issuance of this Report, the RM search for all the items noted by the Applicant as outlined at paragraphs [19] and [22] of this Report and issue a new section 7 decision regarding the outcome of the search.

Dated at Regina, in the Province of Saskatchewan, this 21st day of April, 2025.

Ronald J. Kruzeniski, K.C.
A/Saskatchewan Information and Privacy Commissioner