



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 275-2024

Rural Municipality of Reford No. 379

February 26, 2025

Summary:

The Applicant made 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 withheld some records in full indicating the records had been provided previously to the Applicant in response to another access to information request. In addition, the RM released records in full to the Applicant that had not previously been provided. However, the Applicant believed records were missing and, subsequently, requested a review of the RM's search efforts by the A/Commissioner. Upon review, the A/Commissioner found that the RM did not conduct a reasonable search for responsive records. He recommended that, within 30 days of the issuance of this Report, the RM conduct another search for the remaining records identified by the Applicant and issue a new section 7 decision to the Applicant with a copy to my office.

I BACKGROUND

[1] On October 18, 2024, the RM of Reford No. 379 (RM) received the following access to information request from the Applicant:

I request a copy of my personnel file (released in full) covering the time period from my date of hire approximately 15 years ago, up to and including today's date (October 18, 2024). Yes, I want a complete duplicate of all records released to me in my previous LA FOIP access request of October 2023, to ensure nothing is missing. Thank you.

[2] On October 29, 2024, the RM emailed its section 7 decision to the Applicant, accompanied by a copy of some of the responsive records. In its decision letter, the RM stated: "Some of the records have been withheld from release in full because they were released

previously under LA FOIP request #8-2023.” In addition, the RM indicated that the records being released were records not included in the last request.

[3] On November 23, 2024, the Applicant submitted to my office a request for review regarding the RM’s search efforts for the responsive records. The Applicant indicated they did not believe that all records responsive to their request were located and released.

[4] As an early resolution measure, the RM provided the Applicant with additional records, a total of 72 pages, on December 17, 2024, which it considered “copies of the personnel records provided to you ... for ... (File #8-23).” Following a review of the additional records, the Applicant maintained that more responsive records should have been located and released by the RM in response to their access request.

[5] Accordingly, on December 23, 2024, my office notified the Applicant and the RM that my office would be undertaking a review of the RM’s search efforts and invited both parties to provide submissions. Both parties submitted submissions to my office: the RM, on January 7, 2025, and the Applicant, on January 22, 2025.

[6] On January 24, 2025, as a further gesture of good faith towards informal resolution, the RM agreed to share its submission with the Applicant and also located an additional responsive record (a retirement letter written by the Applicant to the RM). These materials were provided to the Applicant on January 27, 2025. On January 30, 2025, the Applicant informed my office that they had expected a number of additional records to be provided by the RM based on the fact those records were included in the previously fulfilled (October 2023) access to information request. These documents included, but were not limited to, communications regarding:

- The RM’s occupational health and safety policies;
- Corrections to the general ledger;
- The Municipal Employees Pension Plan (MEPP);
- Harassment grievances; and

- Medical leaves.

[7] As a result, on January 30, 2025, my office advised the RM and the Applicant that it would be proceeding with a review of the RM's search efforts.

II RECORDS AT ISSUE

[8] Given that it is the RM's efforts to search for responsive records at issue, there are no records to consider.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[9] The RM is a "local authority" pursuant to subsection 2(1)(f)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Therefore, I find that I have jurisdiction to conduct this review.

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

[10] 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.

[11] Further, subsection 5.1(1) of LA FOIP states:

5.1(1) Subject to this Act and the regulations, a local authority shall respond to a written request for access openly, accurately and completely.

[12] Subsection 5.1(1) of LA FOIP requires a local authority to 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 (*Guide to LA FOIP*, Chapter 3, “Access to Records”, updated May 5, 2023 [*Guide to LA FOIP*, Ch. 3], p. 12).

[13] My focus in this Report is in addressing whether the RM conducted a reasonable search for responsive records. My office has previously defined a “reasonable search” as:

... 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 LA FOIP*, Ch. 3, p. 14)

[14] When an applicant requests a review of a local authority’s search efforts, both the applicant and the local authority are invited to provide submissions.

[15] In terms of applicants, my office’s *Guide to LA FOIP*, Ch. 3 at page 13, states:

Applicants must establish the existence of a reasonable suspicion that a local authority is withholding a record or has not undertaken an adequate search for a record. ... The applicant is expected to provide something more than a mere assertion that a document should exist.

[16] In their submission to my office, the Applicant asserted that they were in possession of records that were previously provided in their October 2023 access to information request but were not released to them in the October 2024 access to information request at issue:

After reviewing the records provided to me on December 17th by the R.M., I noted that the following records were missing: my safety certificates; communication requesting the general ledger correction regarding my boot allowance being \$1400 when it should have only been \$150; MEPP communication; regarding my harassment complaint - no reports or records from the third party investigation; the RM did not provide any communication regarding my medical leave between SARM and the CAO (this is protocol to keep records of all communication involving employees for medical); there should have been notes / communication from the OH&S officer [name redacted] and CAO [named redacted] from the meeting where they told me that I will be charged \$3,000 for breach of privacy for speaking about RM matters; and finally, no

communication regarding my retirement. As I had asked for duplicate records to ensure that my entire file was provided to me (and as the Commissioner has already ruled) – it is okay for me to ask for duplicates so the RM should not be withholding these documents.

[17] In summary, the Applicant identified that records previously released to him were not included as responsive records in his request for duplicates.

[18] In terms of local authorities, my office's *Guide to LA FOIP*, Ch. 3 at pages 14 and 15, states:

When a local authority receives a notice of a review from the Commissioner's 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 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).
- 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*](#).

[19] In its submission to my office, the RM did not provide details of how it searched for the responsive records. Instead, it explained how its records are organized and classified. Further, the RM addressed the "missing" records the Applicant had identified and explained why they were not captured in its search. It also explained why the additional record (a retirement letter written by the Applicant to the RM) was later located and provided during the course of this review. Its submission stated, in part, as follows:

...

Typical documents 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

...

With regard to the list of records the applicant anticipated:

- OH&S communication
 - As indicated "OH&S", considered administrative/operation OH&S, not personnel.
- General Ledger Correction
 - This is considered an operational matter, not a personnel matter.
- MEPP Communication
 - This is considered administrative operations and not included in the personnel file.
- Harassment Grievances
 - Grievances are considered administrative not personnel matters, only if and when an investigation outcome deems corrective measure(s).

- Medical Leave
 - Medical leave is not considered a personnel matter. Due to the sensitive, confidential nature of the documentation the information is not contained in personnel file. It is filed separately in a sealed envelope. Again, upon termination of an employee, the envelope would be transferred to the personnel file for record retention in compliance with the RM's record retention bylaw.
- Meeting (Breach of Privacy)
 - No records exist, no minutes/notes were taken.
- Retirement
 - The RM received notice of retirement on October 10, 2024 indicating a retirement date of October 31, 2024. The letter was placed on the November Council Agenda for acknowledgement and was not placed in the personnel file until November 7th, 2024. The LAFOIP request was received in the RM office October 18th, therefore the letter was not yet in the file. We have attached a copy of the letter for the applicants' records.

[20] I appreciate these details provided by the RM. However, as noted at paragraph [18], a local authority is expected to provide details of its actual search efforts, including who was involved, what was considered, where they looked, how they accessed the information or records, and why. In the present case, while its submission offers some explanation, it is insufficient as it does not the address specific details as to how it conducted its search.

[21] My office has now conducted two reviews specifically about the RM's search efforts:

- [Review Report 336-2023](#), issued July 31, 2024; and
- [Review Report 071-2024](#), issued September 26, 2024.

[22] As such, we have been clear in terms of what could be provided by the RM to substantiate its search efforts. In these reports, my office extensively commented on and provided guidance for this RM in terms of how it should approach documenting search efforts in processing access to information requests. In the present case, the RM again did not follow that advice and provide what could have substantiated its search efforts.

[23] It is worth noting that, in its section 45 response to my office's [Review Report 071-2024](#), the RM indicated it would fully comply with the following recommendation:

[109] I recommend that, within 30 days of the issuance of this Report, the RM complete a review of and revise any policies and procedures that it has in place regarding access to information requests and reviews to ensure that they comply with LA FOIP.

[24] Given that [Review Report 071-2024](#) was issued on September 26, 2024, and that the RM indicated it would fully comply with this recommendation within 30 days of issuance that report, these policies and procedures should have been in place by October 26, 2024 as it provided its section 7 decision to this Applicant on October 29, 2024..

[25] I note that the RM has recently developed a procedure document to guide its responses to future access to information requests. This resource, entitled *LAFOIP Application Checklist*, was shared with my office on February 7, 2025. Within the resource, the RM has proactively incorporated into its procedures the requirements to seek clarification from applicants prior to proceeding with a search, identify areas (filing cabinets, emails, computer directors, etc.) that may have responsive records, and consult a *LA FOIP Responsive Records Search Checklist* when seeking responsive records. This checklist is the kind of document my office would find helpful in a review of search efforts. Going forward, I encourage it to provide to my office in search reviews.

[26] I urge the RM to finalize its policies and procedures regarding the formal documentation of search efforts for access to information requests. To that end, the RM may consult the following materials, relevant to search efforts, published by my office, as well as to [request a consultation](#) of its own resources with my office:

- My office's blog, [How to Conduct an Effective Search for Records](#).
- My office's blog, [Search Checklist](#).
- My office's [Sample Search Checklist](#).
- My office's blog, [3 Minutes for a Search \(updated\)](#).

- My office's [Guide to LA FOIP, Ch. 3 on "Access to Records"](#) from pages 12-34.
- My office's resource, [Improving Access and Privacy with Records and Information Management](#).
- My office's webinar series, [Access and Privacy Tips for Local Authorities](#).
- My office's resource, [Best Practices for Responding to Access Requests](#).

[27] Based on the lack of search details, I find that the RM did not conduct a reasonable search for responsive records.

[28] I recommend that, within 30 days of the issuance of this Report, the RM conduct another search for the remaining records identified by the Applicant at paragraph [16] and issue a new section 7 decision to the Applicant with a copy to my office.

IV FINDINGS

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

[30] I find that the RM did not conduct a reasonable search for responsive records.

V RECOMMENDATION

[31] I recommend that, within 30 days of the issuance of this Report, the RM conduct another search for the remaining records identified by the Applicant at paragraph [16] and issue a new section 7 decision to the Applicant with a copy to my office.

Dated at Regina, in the Province of Saskatchewan, this 26th day of February, 2025.

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