

ALBERTA

INFORMATION AND PRIVACY COMMISSIONER

ORDER 99-027

January 31, 2001

MA'MOWE CHILD AND FAMILY SERVICES AUTHORITY

Review Number 1371

I. BACKGROUND

[para 1.] On October 31, 1997, the Applicant, the Applicant's spouse and a number of their children individually made access requests under the *Freedom of Information and Protection of Privacy Act* (the "Act") to Alberta Family and Social Services, now Ma'Mowe Child and Family Services Authority (the "Public Body"), as follows:

We, being [name of Applicant, Applicant's spouse and a number of their children] hereby request a comprehensive freedom of information disclosure of all information pertaining to us that can be produced by the Department of Family and Social Services. Please note the following.

1. We do not want multiple copies of the same document with one another's names blacked out. Where more than one of us is named on a page, none of our names should be blacked out, and only a single document produced.
2. Where a similar document has been created but only one of us is the subject of the document (for example, the "Information Consolidation" as sent to various psychologists) we want a separate copy of each document.
3. The names of people providing paid services to the government should not be blacked out.
4. We want copies of all information in the control of the government but in the possession of the paid contractors. Accordingly, everyone paid for those services (agencies and individuals) will need to be asked to produce records to be disclosed. This would include records made of oral instructions.

5. Each individual (paid by the government) having involvement with us should be asked to produce every record that person has or knows of including notes, tapes, photos, etc. The list of these individuals includes [eleven named individuals].

We want everything, including the records of [one named individual's] contacts with Catholic Social Services; [another named individual's] contacts with hospital staff; records connected with the interception of telephone discussions, etc.

6. We want the records (reports, telephone messages, etc.) of every foster parent who dealt with us.

7. We want the records that relate to us, connected with every foster child including relevant portions of interviews and reports after those children were taken from our home.

8. We want to know how much was paid for legal fees and otherwise to non-governmental staff in respect of us from [date] to [date].

9. To be clear, we want a copy of every record, including drafts.

...

We also request a waiver of fees in the public interest and because this inquiry is directed to improving the Child Welfare system; Family and Social Services (FSS) has caused us a great deal of suffering and expense; and I am unemployed as a consequence of what FSS did to us.

[para 2.] The Applicant provided signed access request forms from each of the Applicant, the Applicant's spouse and a number of their children. The request gave the telephone numbers of family members who could be contacted to confirm signatures and the access requests.

[para 3.] The Applicant also said that all information and inquiries should be sent to the Applicant, who was the coordinator for all the family members' access requests. In this Order, a reference to the individual Applicant as "Applicant" includes the Applicant's family members as co-Applicants, unless otherwise indicated.

[para 4.] The Public Body treated most of the Applicant's request as a request for personal information, and charged the Applicant only photocopying fees of \$422 for photocopying 1688 pages of records. The Applicant paid the \$422 and subsequently asked for a fee waiver. The Public Body refused to waive the fee.

[para 5.] As to the remainder of the Applicant's access request, the Public Body treated it as a request for general information, and calculated fees accordingly. The Public Body gave a fee estimate of more than \$12,000 for the following: (i) the Applicant's family's personal information contained in the foster parent files; (ii) the Applicant's

family's personal information contained in the records of the foster children; and (iii) information about the amount the Public Body paid for legal fees to non-governmental staff, in relation to the Applicant's family.

[para 6.] On December 23, 1997, the Applicant requested that I review five matters: (i) the adequacy of the Public Body's search; (ii) severing of the records; (iii) the Public Body's refusal to waive the fees; (iv) metering of the Public Body's mail; and (v) the attitude of the Public Body in dealing with the Applicant.

[para 7.] Mediation was authorized. Issues (iv) and (v) were ultimately concluded by way of investigation. My Office also received a July 8, 1998 letter from the Applicant, which said that the Public Body may close the file regarding the personal information contained in the foster files. That understanding was confirmed in a letter from my Office to the Applicant on April 8, 1999.

[para 8.] Mediation was not successful on the remaining three issues. Those issues were set down for a written inquiry. I received the Public Body's and the Applicant's initial written submissions and rebuttal submissions by the deadlines for those submissions.

[para 9.] Upon conducting the inquiry and reviewing the written submissions, I determined that I required additional information to complete the inquiry. The Public Body and the Applicant provided that additional information. I also gave the parties the opportunity to comment on each other's additional information.

[para 10.] When I reviewed the written submissions, I discovered that the Applicant was complaining that the Public Body had not disclosed the Applicant's family's personal information from the foster files. Given the Applicant's July 8, 1998 letter to my Office and the April 8, 1999 letter from my Office to the Applicant (excerpts of which were set out in the Applicant's submission), my Office informed the parties by letter on August 19, 1999 that, in this inquiry, I would not hear the issue of disclosure of the Applicant's family's personal information from the foster files.

[para 11.] This Order proceeds on the basis of the Act as it existed before the amendments to the Act came into force on May 19, 1999.

II. RECORDS AT ISSUE

[para 12.] Once before the inquiry and twice after the date scheduled for the inquiry, the Public Body released further information to the Applicant. As a result of those three subsequent releases, approximately 654 pages of records remain at issue in this inquiry. The Public Body withheld those pages in whole or in part.

[para 13.] The Public Body provided a table of records for the inquiry, which listed the page numbers of the records and the sections of the Act that it was applying to those page numbers. As a result of the subsequent releases, the following pages of records listed in that table are no longer at issue because the Public Body has released all the information contained in those pages: 396, 410, 433, 511, 674, and 692.

[para 14.] The Public Body has numbered the pages of the records consecutively. In this Order, I will refer to individual pages of the records by number. Where a record is comprised of two or more pages and I find it necessary to refer to the entire record, I will refer to that record by hyphenated page numbers. I will refer to all the pages of the records collectively as the "Records".

III. ISSUES

[para 15.] I have summarized the issues for this inquiry, as follows:

- A. Is the Applicant entitled to a fee waiver, as provided by section 87(4)(a) of the Act (for any other reason it is fair to excuse payment)?
- B. Did the Public Body meet its duty to assist the Applicant and to respond to the Applicant openly, accurately and completely, as provided by section 9(1) of the Act?
- C. Did the Public Body correctly determine that section 5(2) (paramountcy) applies to the Records?
- D. Did the Public Body correctly apply section 26 (privileged information) to the Records?
- E. Did the Public Body correctly apply section 16 (personal information) to the Records?
- F. Did the Public Body correctly apply section 18 (confidential evaluations) to the Records?

IV. DISCUSSION OF THE ISSUES

ISSUE A: Is the Applicant entitled to a fee waiver, as provided by section 87(4)(a) of the Act (for any other reason it is fair to excuse payment)?

[para 16.] The Applicant's argument is that, for any other reason, it is fair to excuse payment, as provided by section 87(4)(a). The burden of proof is on the Applicant.

[para 17.] Section 87(4)(a) reads:

87(4) The head of a public body, or the Commissioner at the request of an applicant, may excuse the applicant from paying all or part of a fee if, in the opinion of the head or the Commissioner, as the case may be,

(a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment...

[para 18.] The Applicant initially argued that I should waive the \$422.00 fee charged for photocopying because the Public Body (i) was not reasonable, open, accurate and complete, thus increasing the burden on the Applicant; (ii) unnecessarily caused a great deal of suffering and expense, including the loss of employment; (iii) disclosed further information in 1999, when the Public Body should have disclosed that information earlier; and (iv) charged for blank pages.

[para 19.] In a subsequent submission, the Applicant further argued that (v) the Applicant's spouse incurred legal expenses directly attributable to the negligence of the Public Body; (vi) submitting access requests for all the family members at one time saved the Public Body a great deal of duplication and time; (vii) the Applicant had to follow the formal process for access to records after previously being told by the Public Body that certain records could be obtained outside the formal access process; (viii) the Public Body provided some cut off pages, did not number some pages, and made erroneous indices; (ix) there was a long delay in releasing some information; and (x) the Public Body violated the *Criminal Code* and the *Child Welfare Act* by intercepting private telephone communications and passing them along.

[para 20.] At the outset, I want to say that I have sympathy for the Applicant's situation. However, I must apply the law, based on the evidence before me.

[para 21.] There is no evidence in this inquiry to support the Applicant's allegations about the Public Body's unnecessarily causing a great deal of suffering and expense, including the loss of employment, or that the Public Body was negligent. Consequently, I do not intend to consider those matters as supporting a fee waiver under section 87(4)(a).

[para 22.] Misconduct in a public body's responding to an applicant could be a reason to waive fees on the ground of fairness. However, there is no evidence that the Public Body was guilty of misconduct when it responded to the Applicant on the access request.

[para 23.] Furthermore, the Public Body has explained, to my satisfaction, that the Applicant was provided with certain records outside of the access request, as part of court proceedings. That is how the Applicant came to have some unnumbered pages outside of the access request. There are some errors in the index of records provided for the inquiry, but that index is not part of the Public Body's response to the Applicant. Whether the Applicant received two cut-off pages (pages 597 and 646) from the Public Body is not, of itself, a reason to waive the fees. However, I intend to order the Public Body to again provide those pages to the Applicant, at no charge.

[para 24.] Later disclosures of information by the Public Body appear to be the Public Body's reconsidering whether certain exceptions under the Act applied to the information previously withheld from the Applicant. I do not find any unfairness in the Public Body's subsequently changing its mind about the application of some exceptions and providing more information to the Applicant at a later date.

[para 25.] Whether there was an interception of private telephone communications contrary to the *Criminal Code* is a matter to be dealt with in the criminal courts. It is not within my jurisdiction to make findings on that matter under the Act.

[para 26.] I have no evidence that submitting several access requests at one time saved the Public Body a great deal of duplication and time, although it may well have done so. However, that is not a reason to waive photocopy fees, which do not include a charge for time.

[para 27.] There is another matter. The Public Body says that the Applicant requested the same records from the Public Body on a previous

access request. When the Applicant requested a fee waiver on that access request, the Public Body reduced the fee.

[para 28.] On this access request, the Public Body says it informed the Applicant that 1038 pages of records were the same as those on the Applicant's previous access request. The Public Body suggested that the Applicant not include those pages, to reduce the fee on this request, but the Applicant refused.

[para 29.] The Applicant was in a position to reduce the fee on this request and did not. That fact weighs against a fee waiver for the Applicant under section 87(4)(a).

[para 30.] Finally, I asked the Public Body whether it charged for blank pages and, if so, why. The Public Body responded that it was necessary to provide the Applicant with blank pages on which all information had been withheld, in order to maintain the sequence of its numbering system and to ensure that the Applicant did not think that the Public Body was concealing any pages. The Public Body charged twenty-five cents per page for those blank pages. Information on some of the blank pages was later disclosed to the Applicant after further review by the Public Body.

[para 31.] The Applicant did not say how many blank pages were received. In the records provided to me for the inquiry, there are approximately 63 completely blank pages, except for the accession numbers added to those pages in processing the access request.

[para 32.] If a page is to be withheld in its entirety from an applicant (that is, the page is blank), then I do not think it would be necessary to photocopy the page. The charge of twenty-five cents per page is for photocopying. There should not be a charge for providing a blank page that has not been photocopied.

[para 33.] There are alternatives to providing an applicant with numerous blank pages. For example, a public body could provide an applicant with a list of pages on which all information is to be withheld. That list would include the section numbers of the Act that apply to the information withheld from those pages, and the corresponding accession numbers with which the public body has stamped those pages in processing the access request. Alternatively, a public body could ask whether the applicant wants photocopies of blank but numbered pages, for which there could be a charge.

[para 34.] I intend to reduce the Applicant's fee by \$15.75, which is the photocopy charge for 63 blank pages, at twenty-five cents per page. I intend to order the Public Body to refund that amount to the Applicant.

[para 35.] I do not find that it is fair to reduce the Applicant's fee any further, particularly since the Applicant could have reduced the fee by excluding 1038 pages of the same records received on a previous access request.

[para 36.] I do not intend to deal with any other matters raised for the first time in the Applicant's final submission.

ISSUE B: Did the Public Body meet its duty to assist the Applicant and to respond to the Applicant openly, accurately and completely, as provided by section 9(1) of the Act?

[para 37.] Section 9(1) reads:

9(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.

[para 38.] The Applicant complains about both the Public Body's general duty to assist and the Public Body's search for records.

[para 39.] Among other things, the Applicant says that (i) the Public Body has not fulfilled its duty to obtain and disclose personal information held by contractors, such as agencies, psychologists and foster parents; (ii) the Public Body has not conducted a diligent search; (iii) there was no correlation of later disclosures with earlier disclosures, in that the Public Body did not indicate the relationship between records in the first and later disclosures; and (iv) the disclosure of some information consolidations is misleading or incomplete.

[para 40.] In the final submission, the Applicant expressed concerns as to the whereabouts of certain forms, undisclosed information consolidations, unreadable pages and cut-off pages (pages 597 and 646).

[para 41.] To answer the Applicant's allegations contained in the Applicant's submission, I required the Public Body to provide an affidavit to me (the Applicant received a copy), which was to deal with the following:

- How the Public Body generally conducted its search for records on the Applicant's request for access.
- Whether the records listed on page 14 of the Applicant's submission exist and, if so, why they were not found.
- How the Public Body conducted its search for contractors' records, and what the Public Body did to obtain contractors' records that were not in its custody but were under its control (referring to the records on page 9 of the Applicant's submission).
- Why the Public Body did not locate further information consolidations (referred to on page 16 of the Applicant's submission).
- Whether all pages released to the Applicant were numbered, including the pages for the second and third releases.
- Whether the Public Body provided the best readable copies available for the records.

[para 42.] The Public Body knows the seriousness of swearing a false affidavit. As to the foregoing matters, I accept the Public Body's explanations provided in its affidavit. I find that the Public Body conducted an adequate search and met its duty to assist the Applicant and to respond to the Applicant openly, accurately and completely, with two exceptions.

[para 43.] First, the Public Body has not said whether the telephone conversation referred to by the Applicant and inadvertently taped on a contractor's telephone answering machine is in the Public Body's custody or control, or whether it even exists. That part of the affidavit is unclear.

[para 44.] I intend to require the Public Body to inform me and the Applicant whether that record exists and, if so, whether it is in the Public Body's custody (possession) or under its control.

[para 45.] If the Public Body does not know whether it has custody (possession), I intend to order the Public Body to conduct a further search and to report to me and to the Applicant about the search conducted and the results of that search. If the Public Body has custody of that tape, I intend to require that it inform the Applicant whether it will disclose the tape. If it will disclose the tape, I intend to order it to do so without any cost to the Applicant.

[para 46.] If the tape is in the custody (possession) of the contractor, then I accept that the Public Body does not have control over a contractor's telephone answering machine and the resulting tape, unless there is an agreement for that control. I am going to require the Public Body to also report to me and to the Applicant whether there is an

agreement for that control, in which case I will further require the Public Body to inform the Applicant whether it will disclose the tape (at no cost).

[para 47.] Second, I intend to order the Public Body to provide the Applicant with pages 597 and 646 that have not been cut off, at no cost.

[para 48.] I do not intend to deal with any other matters raised for the first time in the Applicant's final submission.

ISSUE C: Did the Public Body correctly determine that section 5(2) (paramountcy) applies to the Records?

1. General

[para 49.] The Public Body says that section 5(2) of the Act applies to the information withheld from the following pages of the Records:

4, 6, 71, 94, 103, 169, 170, 171, 172, 174, 175, 179, 182, 183, 184, 197, 206, 209, 211, 212, 216, 220, 223, 225, 230, 233, 236, 250, 264, 268, 269, 271, 277, 315, 325, 326, 327, 331, 332, 336, 337, 348, 357, 359, 361, 369, 373, 374, 380, 382, 383, 384, 385, 399, 417, 434, 437, 482, 483, 485, 493, 494, 500, 504, 505, 544, 547, 549, 550, 599, 602, 615, 616, 618, 619, 620, 621, 622, 626, 627, 629, 631, 632, 633, 634, 635, 636, 638, 639, 640, 641, 642, 648, 649, 650, 652, 653, 655, 658, 669, 701, 717, 731, 763, 764, 765, 766, 767, 797, 798, 799, 801, 810, 822, 826, 827, 833, 837, 863, 864, 866, 892, 893, 894, 895, 916, 950, 976, 1294, 1349, 1350, 1360, 1417, 1418, 1419, 1420, 1421, 1422, 1424, 1425, 1492, 1493, 1512, 1615, 1621, 1677, 1678

[para 50.] Pages 383 and 631 originally did not appear under section 5(2) in the Public Body's index of records. When I questioned whether those two records were to be included under section 5(2), the Public Body responded in its supplemental submission that page 383 was inadvertently omitted from the index. The Public Body also said that I should consider page 631 under section 5(2), even though the Public Body initially did not. I intend to consider both pages under section 5(2).

[para 51.] Under section 5(2), I also intend to consider the information withheld on page 601. Although the Public Body withheld that information, it did not indicate that section 5(2) applied. Since section 5(2) of the Act is a jurisdictional provision, I have the authority to determine whether I have jurisdiction, and will do so here.

[para 52.] The Public Body did not say whether section 5(2) applies to all or only some of the information withheld on each of the foregoing

pages. Therefore, I have assumed that the Public Body applied section 5(2) to all the information withheld on each of those pages.

[para 53.] Section 5(2) of the Act reads:

5(2) If a provision of this Act is inconsistent or in conflict with a provision of another enactment, the Provision of this Act prevails unless

(a) another Act, or

(b) a regulation under this Act

expressly provides that the other Act or regulation, or a provision of it, prevails despite this Act.

[para 54.] Section 5(2) permits another enactment (a statute or regulation), or a provision of that enactment, to prevail over the Act. Consequently, section 5(2) is often referred to as the “paramountcy” provision. If section 5(2) applies to information, I do not have jurisdiction to apply the Act to that information.

[para 55.] Section 5(2) requires that I first decide whether the information falls within another enactment or a provision of it that expressly provides that the enactment or a provision of it prevails despite the Act. If so, I must then decide whether there is an inconsistency or conflict between a provision of the Act and the other enactment or a provision of it. If there is an inconsistency or conflict, that enactment or a provision of it prevails despite the Act.

2. Does the particular information withheld fall within another enactment or a provision of it that expressly provides that the enactment or a provision of it prevails despite the Act?

[para 56.] The Public Body says that the particular information withheld falls within section 91(4) of the *Child Welfare Act*, S. A. 1984, c. C-9.1, which prevails despite the Act, as provided by section 5(2) of the Act and section 15(1)(b) of the *Freedom of Information and Protection of Privacy Regulation*, Alta. Reg. 200/95 (the “Regulation”).

[para 57.] Section 15(1)(b) of the Regulation reads:

15(1) The following provisions prevail despite the Freedom of Information and Protection of Privacy Act:

...

(b) Child Welfare Act, sections 66(6) and (8), 91(4).

[para 58.] I will be referring to section 91(4) and also to other provisions of section 91, which are set out below:

91(1) Except in proceedings under this Act or in accordance with section 66 or 66.1, the Minister and any person employed or assisting in the administration of this Act shall preserve secrecy with respect to the name and any other identifying information of a person that comes to his attention under this Act and shall not disclose or communicate that information to any other person except as otherwise provided by this section.

(2) Subject to section 66, the Minister or any person employed or assisting in the administration of this Act may disclose or communicate any information referred to in subsection (1) to the following:

...

(4) Notwithstanding subsection (2), the name of a person who reports to a director pursuant to section 3 or 4 shall not be disclosed or communicated to any person without the consent in writing of the Minister.

[para 59.] If section 91(4) of the *Child Welfare Act* applies to the information the Applicant requested, I have no jurisdiction over access to that information.

[para 60.] Section 91(4) of the *Child Welfare Act* refers to section 3 and section 4 of the *Child Welfare Act*. Only section 3 of the *Child Welfare Act* is relevant. The relevant portion of section 3 reads:

3(1) Any person who has reasonable and probable grounds to believe and believes that a child is in need of protective services shall forthwith report the matter to a director.

[para 61.] “Child” is defined in section 1(1)(d) of the *Child Welfare Act* to mean a person under the age of 18 years.

[para 62.] Section 1(2) of the *Child Welfare Act* deals with the matter of when a child is in need of protective services. Section 1(2) reads:

1(2) For the purposes of this Act, a child is in need of protective services if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of any of the following:

(a) the child has been abandoned or lost;

(b) the guardian of the child is dead and the child has no other guardian;

(c) the guardian of the child is unable or unwilling to provide the child with necessities of life, including failing to obtain for the child or to permit the child to receive essential medical, surgical or other remedial treatment that has been recommended by a physician;

(d) the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;

(e) the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;

(f) the child has been emotionally injured by the guardian of the child;

(g) the guardian of the child is unable or unwilling to protect the child from emotional injury;

(h) the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment;

(i) the condition or behaviour of the child prevents the guardian of the child from providing the child with adequate care appropriate to meet the child's needs.

[para 63.] The Public Body says that, on the Applicant's access request, it severed all names and identifying information of persons who reported an alleged incident of child abuse to the Minister, as provided by section 91(4) of the *Child Welfare Act*. I do not place any significance on whether the report is to the Minister, to the director to whom the Minister has delegated power, or to someone to whom the director delegates power, as long as the report is to the Public Body under the *Child Welfare Act*.

[para 64.] The Applicant complains that the Public Body withheld names and other identifying information from records that have nothing to do with reporting under the *Child Welfare Act*, and thereby identified the persons who reported.

[para 65.] I have reviewed the records. Much of the information the Public Body withheld falls within two categories: (i) an adult reporting abuse of himself or herself as a child, and (ii) an adult reporting abuse of a person when that person was a child, but the person who was allegedly abused is now an adult.

[para 66.] In my view, reporting an alleged incident of child abuse, of itself, does not fall within section 3(1) unless the report is about a person who, at the time of the report, is under the age of 18 (a "child") and in need of protective services under any of the provisions of section 1(2). Section 3(1) and, consequently, section 91(4), does not apply to incidents of child abuse occurring in the past, involving someone who is no longer a child at the time the abuse is reported. I believe this finding answers the Applicant's complaint that some of the information withheld does not fall within the *Child Welfare Act*.

[para 67.] I find that the Public Body did not correctly apply section 91(4) of the *Child Welfare Act* and therefore section 5(2) of the Act to the information set out in Schedule B of this Order. The information set out in Schedule B of this Order is not paramount to the Act, and I have jurisdiction over that information. That information remains to be considered under other provisions of the Act.

[para 68.] Section 91(1) of the *Child Welfare Act* requires that secrecy be preserved for the "name and any other identifying information" of a person that comes to the Minister's attention under the *Child Welfare Act*. Section 91(4) of the *Child Welfare Act* says that only the name of a person who reports is not to be disclosed or communicated. Can section 91(4) be interpreted to prohibit disclosure of not only the name, but also identifying information of a person who reports?

[para 69.] I was not able to find any case law dealing specifically with the interpretation of section 91(4).

[para 70.] The Concise Oxford Dictionary, Ninth Edition, defines “disclose” to mean “make known” or “reveal”. Consequently, if disclosing the identifying information would disclose the name under section 91(4), then I believe that the identifying information also cannot be disclosed under section 91(4).

[para 71.] It seems to me that the purpose of section 91 is to preserve secrecy with respect to names and other identifying information of any person who comes to the Minister’s attention under the *Child Welfare Act*, including a person who reports. In the context of section 91 as a whole, the intent is not to disclose identity, except in limited circumstances.

[para 72.] Furthermore, if I were to read section 91(4) as protecting only the name of a person who reports, the consequence is that other identifying information could be disclosed that would identify the person who reports. That would be an absurd consequence, which would defeat the purpose of section 91. Consequently, section 91(4) must be interpreted to include not only the name, but also other identifying information of a person who reports.

[para 73.] I find that the Public Body correctly applied section 91(4) of the *Child Welfare Act* and therefore section 5(2) of the Act to the information withheld from the records, as set out in Schedule A of this Order.

[para 74.] I also find that section 91(4) of the *Child Welfare Act* and therefore section 5(2) of the Act applies to page 601 (1st sentence in the severed item).

[para 75.] In deciding whether the Public Body correctly applied section 91(4) of the *Child Welfare Act*, I have kept in mind both the context of information severed in each individual record and context of information severed in the Records as a whole. I have also made comparisons among the Records to determine what the Public Body has and has not disclosed, and have taken into consideration the differences in severing the same information in copies of the same or substantially the same records (pages 648, 763, and 797; and 649, 764, and 798, for example).

3. Is there an inconsistency or conflict between the Act and section 91(4) of the *Child Welfare Act*?

[para 76.] Section 6(1) of the Act gives an applicant a right of access to information, subject to certain exceptions. Section 16 of the Act permits a public body to disclose personal information of a third party (such as a name and other recorded identifiable information of the third party) to an applicant, if the disclosure would not be an unreasonable invasion of a third party's personal privacy.

[para 77.] On the other hand, section 91(4) of the *Child Welfare Act* prohibits access to the name and other identifying information of a person who reports. That name cannot be disclosed or communicated without the consent in writing of the Minister. Therefore, the access provisions and section 16 of the Act are inconsistent or in conflict with section 91(4) of the *Child Welfare Act*, in relation to the information withheld by the Public Body.

[para 78.] The paramountcy provision of section 5(2) of the Act and section 15(1)(b) of the Regulation resolve this conflict in favour of section 91(4) of the *Child Welfare Act*. So the access provisions and section 16 of the Act give way to section 91(4) on the issue of access to names and other identifying information of persons who report under the *Child Welfare Act*.

4. Conclusion under section 5(2) of the Act

[para 79.] The Public Body correctly determined that section 5(2) of the Act applies to the names and other identifying information of persons who reported under the *Child Welfare Act*, as provided by section 91(4) of the *Child Welfare Act*. That information withheld by the Public Body is contained in the records, as set out in Schedule A of this Order.

[para 80.] I have found that section 5(2) of the Act also applies to the names and other identifying information of persons who reported under the *Child Welfare Act*, contained in the first sentence of the information withheld on page 601.

[para 81.] Consequently, the Act does not apply to the information, and I have no jurisdiction over disclosure of that information on the Applicant's access request. The Applicant cannot get access to that information under the Act.

[para 82.] The Public Body did not correctly determine that section 5(2) of the Act applies to the information withheld from the records, as set out

in Schedule B of this Order. The information withheld from those records is subject to the Act, and I have jurisdiction over that information. That information remains to be considered under other exceptions to the Act.

ISSUE D: Did the Public Body correctly apply section 26 (privileged information) to the Records?

1. General

[para 83.] As a result of the Public Body's subsequent releases, the Public Body has disclosed the following pages in their entirety to the Applicant: 396, 410, 433, 511, 674, 692. Consequently, although those pages appear on the Public Body's index of records to be considered under section 26(1) in this inquiry, I will not be considering those pages.

2. Application of section 26(1)(a)

[para 84.] The Public Body says that section 26(1)(a) (solicitor-client privilege) applies to the following pages of the records:

89, 93, 94, 101 (four words), 102, 103, 117, 124, 131, 144, 149, 157, 387, 417, 424, 434, 472, 474, 480, 483, 485, 487, 502, 503, 504, 505, 508 (four words), 509, 512, 513, 521, 522, 529, 532, 533, 670, 673, 683, 684, 685, 687, 689, 691, 694, 695, 696, 713, 721, 822 (four words), 825, 826, 827 (four words), 842, 845, 1248, 1249, 1259, 1260, 1263, 1264, 1265, 1290, 1291, 1292, 1293, 1294, 1296, 1302, 1305, 1306, 1317, 1461, 1462

[para 85.] Section 26(1)(a) reads:

26(1) The head of a public body may refuse to disclose to an applicant

(a) information that is subject to any type of legal privilege, including solicitor-client privilege or parliamentary privilege.

[para 86.] For solicitor-client privilege to apply to a document, the document must meet the following three criteria:

- (i) it must be a communication between a solicitor and client,
- (ii) which entails the giving or seeking of legal advice, and

(iii) which the parties intend to be confidential.

[para 87.] If a document meets the criteria for solicitor-client privilege, the entire document may be withheld.

[para 88.] The following documents meet all three criteria for solicitor-client privilege:

102-103, 131, 157, 502, 503-505, 521, 825-826, 1248-1249, 1294, 1296, 1305-1306, 1461-1462

[para 89.] In Order 96-020, I followed *Balabel v. Air India*, [1988] 2 All E.R. 246 (C.A.), which states:

There will be a continuum of communications between solicitor and client...Where information is passed by the solicitor or client to the other as part of the continuum aimed at keeping both informed so that advice may be sought and given as required, privilege will attach.

[para 90.] Consequently, I find that solicitor-client privilege applies to the following documents, which are part of the continuum of confidential communications between a solicitor and client for the purpose of giving and seeking legal advice:

93-94, 124, 509, 522, 529, 1290-1291, 1302, 1317

[para 91.] Solicitor-client privilege also applies to the communications and the continuum of communications between the Public Body's solicitor and Alberta Justice as agent for the Public Body (for my comments on agents in the solicitor-client relationship, see Order 97-003). The following documents are included:

89, 117, 144, 149, 512-513, 1259-1260, 1263-1265, 1292-1293

[para 92.] I further find that none of the foregoing documents have been copied ("cc'd") to anyone outside of the solicitor-client relationship. Therefore, solicitor-client privilege has not been waived for any of the foregoing documents.

[para 93.] The Public Body applied section 26(2) to document 500-501, without indicating whether section 26(1)(a) also applies. I have considered it an oversight on the Public Body's part that section 26(1)(a) was not also listed for document 500-501, and have considered section 26(1)(a) for that document. See also the discussion of section 26(2) later in this Order.

[para 94.] Document 502, to which solicitor-client privilege applies, refers to an attachment that is document 500-501. I have said that attachments can be part of the continuum of legal advice such that solicitor-client privilege applies to the attachment. Consequently, I find that section 26(1)(a) applies to document 500-501, which is part of the continuum of legal advice.

[para 95.] In Order 99-013, I said that solicitor-client privilege can apply to information as well as to documents, such as an employee's notes regarding a solicitor's legal advice and comments on that advice. I find that solicitor-client privilege applies to the employees' notes withheld from the following pages:

387, 417, 424 (1st severed item), 472 (2nd severed item), 474 (2nd severed item), 480 (1st severed item), 483, 485, 487 (2nd severed item), 673, 683, 684, 685 (1st to 12th lines), 687, 689, 691, 694, 695 (1st column), 696, 713, 721, 842, 845

[para 96.] I have also considered markings on documents to which solicitor-client privilege applies, such as date stamps, copy stamps and handwritten initials of persons. I find that those markings are within the context of the solicitor-client communication. Therefore, it is not necessary to consider them under any other exception under the Act. The fact that the Public Body has disclosed some of those markings to the Applicant does not waive solicitor-client privilege for the remainder of the solicitor-client communication because the Public Body has not disclosed the substance of the communication.

[para 97.] If I am wrong in this decision, and the markings could be disclosed because no other exception under the Act applies (such as section 16), I would find that the markings are meaningless information, based on the information the Applicant requested. I would not order the disclosure of markings that are meaningless information in this or in any other case.

[para 98.] I find that solicitor-client privilege does not apply to the following:

101 (four words), 424 (2nd to 4th severed items), 434, 472 (1st severed item), 474 (1st severed item), 480 (2nd and 3rd severed items), 487 (1st severed item), 508 (four words), 532, 533, 670, 685 (13th to 17th lines), 695 (2nd column), 822 (four words), 827 (four words)

[para 99.] Those records remain to be considered under section 26(1)(b).

[para 100.] The Public Body says that section 26(2) of the Act applies to the following pages of the records:

149, 500, 501, 502, 513, 1264, 1265, 1462

[para 101.] Section 26(2) reads:

26(2) The head of a public body must refuse to disclose information described in subsection (1)(a) that relates to a person other than a public body.

[para 102.] For section 26(2) to apply, there must first be a finding that there is information described in section 26(1)(a). In other words, the information first has to meet the criteria for privilege, in this case, solicitor-client privilege. Second, solicitor-client privilege must relate to a person other than a public body. In other words, the solicitor-client privilege must be that of a person other than a public body.

[para 103.] The documents meet the criteria for solicitor-client privilege of the Public Body. However, neither the documents nor the information they contain meets the criteria for solicitor-client privilege of a person other than a public body because there is no communication between the person and that person's solicitor. Therefore, section 26(2) does not apply to the information or to those documents. The result is that the Public Body has not correctly applied section 26(2) to those documents, although the Public Body has correctly applied section 26(1)(a).

3. Exercise of discretion under section 26(1)(a)

[para 104.] Even if section 26(1)(a) applies to records, a public body may nevertheless exercise its discretion to disclose the records. A public body properly exercises its discretion when it takes into consideration the objects and purposes of the Act, and does not exercise its discretion for an improper or irrelevant purpose.

[para 105.] The Public Body says that there was no justification for disclosing those records to the Applicant. The Public Body points to the numerous records it did disclose to the Applicant.

[para 106.] Taking these matters into consideration, I find that the Public Body exercised its discretion properly in not disclosing the records to which I have found that section 26(1)(a) applies.

4. Application of section 26(1)(b)

[para 107.] Under section 26(1)(b), I have considered only that information or those records for which I have found that section 26(1)(a) does not apply.

[para 108.] Section 26(1)(b) reads:

26(1) The head of a public body may refuse to disclose to an applicant

(b) information prepared by or for an agent or lawyer of the Minister of Justice and Attorney General or a public body in relation to a matter involving the provision of legal services...

[para 109.] I find that section 26(1)(b) does not apply to all the information or records to which section 26(1)(a) does not apply, as follows:

101 (four words), 424 (2nd to 4th severed items), 434, 472 (1st severed item), 474 (1st severed item), 480 (2nd and 3rd severed items), 487 (1st severed item), 508 (four words), 532, 533, 670, 685 (13th to 17th lines), 695 (2nd column), 822 (four words), 827 (four words)

[para 110.] In my view, there is no information in the foregoing records that can be said to be “information prepared”, as those words are commonly understood. Furthermore, in some of the records, there is no information prepared by or for any of the persons listed in section 26(1)(b).

[para 111.] Given my decision that section 26(1)(b) does not apply, there is no need to consider the Public Body’s exercise of discretion under section 26(1)(b).

5. Application of section 26(1)(c)

[para 112.] Only the following information or records are to be considered under section 26(1)(c):

101 (four words), 508 (four words), 532, 533, 822 (four words), 827 (four words)

[para 113.] Section 26(1)(c) reads:

26(1) The head of a public body may refuse to disclose to an applicant

(c) information in correspondence between an agent or lawyer of the Minister of Justice and Attorney General or a public body and any other person in relation to a matter involving the provision of advice or other services by the agent or lawyer.

[para 114.] I find that section 26(1)(c) applies to the following:

532 (middle 3 lines), 533 (middle 5 lines)

[para 115.] I find that section 26(1)(c) does not apply to the following:

101 (four words), 508 (four words), 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 822 (four words), and 827 (four words)

[para 116.] In my view, the foregoing information cannot be said to be “information...in relation to a matter involving the provision of advice or other services”.

6. Exercise of discretion under section 26(1)(c)

[para 117.] The Public Body says that there was no justification for disclosing those records to the Applicant. The Public Body points to the numerous records it did disclose to the Applicant.

[para 118.] Taking these matters into consideration, I find that the Public Body exercised its discretion properly under section 26(1)(c), except for pages 532 and 533. I believe that the Public Body did not exercise its discretion properly in withholding 532 (middle 3 lines) and 533 (middle 5 lines) because those are records that the Public Body’s solicitor sent to the Applicant’s solicitor. Therefore, I intend to order the Public Body to reconsider its decision for pages 532 (middle 3 lines) and 533 (middle 5 lines).

7. Conclusion under section 26(1)(a)

[para 119.] The Public Body correctly applied section 26(1)(a) (solicitor-client privilege) and exercised its discretion properly with respect to the following:

89, 93-94, 102-103, 117, 124, 131, 144, 149, 157, 387, 417, 424 (1st severed item), 472 (2nd severed item), 474 (2nd severed item), 480 (1st severed item), 483, 485, 487 (2nd severed item), 500-501, 502, 503-505, 509, 512-513, 521, 522, 529, 673, 683, 684, 685 (1st to 12th lines), 687, 689, 691, 694, 695 (1st column), 696, 713, 721, 825-826, 842, 845, 1248-1249, 1259-1260, 1263-1265, 1290-1291, 1292-1293, 1294, 1296, 1302, 1305-1306, 1317, 1461-1462

[para 120.] The Public Body did not correctly apply section 26(1)(a) (solicitor-client privilege) to the following:

101 (four words), 424 (2nd to 4th severed items), 434, 472 (1st severed item), 474 (1st severed item), 480 (2nd and 3rd severed items), 487 (1st severed item), 508 (four words), 532, 533, 670, 685 (13th to 17th lines), 695 (2nd column), 822 (four words), 827 (four words)

[para 121.] The Public Body did not correctly apply section 26(2) to the following, although the Public Body correctly applied section 26(1)(a):

149, 500, 501, 502, 513, 1264, 1265, 1462

[para 122.] The Public Body did not correctly apply section 26(1)(b) to any of the records to which the Public Body also did not correctly apply section 26(1)(a).

[para 123.] The Public Body correctly applied section 26(1)(c) to pages 532 (middle 3 lines) and 533 (middle 5 lines).

[para 124.] The Public Body did not correctly apply section 26(1)(c) to the following:

101 (four words), 508 (four words), 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 822 (four words), and 827 (four words)

[para 125.] The Public Body did not exercise its discretion properly under section 26(1)(c) with respect to page 532 (middle 3 lines) and page 533 (middle 5 lines). I intend to order the Public Body to reconsider its decision for page 532 (middle 3 lines) and page 533 (middle 5 lines).

8. What records or information remain to be considered under section 16?

[para 126.] As to the information or records to which the Public Body did not correctly apply section 26(1)(b), the Public Body has listed those records to be considered under section 16, except pages 670, 685 (13th to

17th lines) and 695. However, as pages 670, 685 (13th to 17th lines), and 695 (2nd column) contain personal information of third parties, I intend to consider them under section 16.

[para 127.] As to the information or records to which the Public Body did not correctly apply section 26(1)(c), the Public Body has listed pages 508, 822 and 827 to be considered under section 16. I also intend to consider the following under section 16: page 101 (four words), because that page contains personal information, and that page is the same record as pages 822 and 827; 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines).

ISSUE E: Did the Public Body correctly apply section 16 (personal information) to the Records?

1. General

[para 128.] Schedule C of this Order contains the records the Public Body has listed to be considered under section 16, except for the following:

(i) pages 63 and 1348. In subsequent releases to the Applicant, the Public Body has disclosed all the information on those pages.

(ii) the pages of the records for which I have found that section 5(2) of the Act applies to all the information withheld on that page: 183, 197, 374, 437, 627, 632, 633, 658, 810, 894, 895, and 1360.

(iii) the pages of the records for which I have found that section 26(1) of the Act applies to all the information withheld on that page: 94, 103, 144, 149, 417, 483, 485, 500, 501, 504, 505, 513, 521, 826, 1249, 1259, 1260, 1264, 1265, 1291, 1292, 1293, 1294, 1296, 1302, 1306, 1317, 1461, and 1462.

[para 129.] I do not intend to consider the above pages under section 16, nor do I intend to consider information on pages for which I have found that section 5(2) or section 26(1) applies in part.

[para 130.] Although not listed by the Public Body under section 16, I also intend to consider the following under section 16:

101 (four words), 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 670, 685 (13th to 17th lines), 695 (2nd column)

2. Do the records contain “personal information” of a third party?

[para 131.] “Personal information” is defined in section 1(1)(n) of the Act to mean “recorded information about an identifiable individual”, including those kinds of personal information listed in section 1(1)(n)(i) to (ix).

[para 132.] I have reviewed all the information or records to which the Public Body said that section 16 applies, and all the information or records that I said I would consider under section 16. I find that all those records contain third parties’ personal information consisting of one or more kinds set out in section 1(1)(n). There is also other recorded information about identifiable individuals (third parties), consisting of such things as handwriting and contextual information.

[para 133.] The Applicant and the members of the Applicant’s family are not third parties for the purposes of section 16, and would be entitled to their personal information, subject to any other exceptions under the Act. Consequently, there are some instances of previously withheld information of the Applicant’s family that I intend to order the Public Body to disclose (such as on pages 377, 434, 987, 989 and 991).

[para 134.] However, where there is a third party’s personal information intertwined with personal information of the Applicant’s family, I have determined whether all or none of the Applicant’s family’s personal information can be disclosed.

3. Would disclosure of the third parties’ personal information be an unreasonable invasion of the third parties’ personal privacy?

a. General

[para 135.] Section 16(1) of the Act provides:

16(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party’s personal privacy.

b. What presumptions apply under section 16(2)?

[para 136.] The Public Body says that a disclosure of the third parties’ personal information is presumed to be an unreasonable invasion of personal privacy under section 16(2)(a), (b), (c), (d) or (g).

[para 137.] I find it necessary to consider only section 16(2)(g), which reads:

16(2) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

(g) the personal information consists of the third party's name when

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party...

[para 138.] In deciding whether section 16(2)(g) applies, I have reviewed the information contained in each individual record and the information contained in the Records as a whole.

[para 139.] I find that all the information to be considered under section 16 falls within section 16(2)(g).

c. What relevant circumstances did the Public Body consider under section 16(3)?

[para 140.] Section 16(3) of the Act requires a public body to consider all the relevant circumstances in deciding under section 16(1) or (2) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy.

[para 141.] The Public Body says it considered section 16(3)(e), (f) and (h). Those provisions read:

16(3) In determining under subsection (1) or (2) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

*...
(e) the third party will be exposed unfairly to financial or other harm;*

(f) the personal information has been supplied in confidence;

...

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.

[para 142.] If the above provisions apply, they weigh in favour of not disclosing the third parties' personal information.

[para 143.] I have reviewed the relevant circumstances the Public Body considered. I have also taken into consideration that personal information of certain third parties and the resulting records relate to a time in which the Applicant and the Applicant's spouse were foster parents of those third parties. In that regard, I consider this case to be similar to Order 98-004, and I intend to apply similar principles. Consequently, I have reviewed the following circumstances that I consider to be relevant and that weigh in favour of disclosing the third parties' personal information:

- records sent by the Applicant, the Applicant's spouse or their solicitors
- records sent to the Applicant, the Applicant's spouse or their solicitors
- tribunal and court decisions involving the Applicant's family
- public domain records involving the Applicant's family

i. Records sent by the Applicant, the Applicant's spouse, or their solicitors

[para 144.] The Applicant, the Applicant's spouse and their solicitors sent to the Public Body and others numerous records containing the personal information of third parties, as follows:

134, 135, 137, 290, 980, 983, 992, 1007, 1008, 1009, 1010, 1034, 1127, 1128, 1133, 1134, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1199, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1254, 1255, 1276, 1299, 1311, 1312, 1313, 1314, 1316, 1320, 1321, 1322, 1323, 1427, 1452, 1454, 1477, 1479, 1480, 1485, 1486, 1487

[para 145.] In Order 98-004, I said that an applicant's or an applicant's solicitor's having supplied a third party's personal information to a public

body is a relevant circumstance weighing in favour of disclosing the third parties' personal information to the applicant.

[para 146.] There has been a change in circumstances between the Applicant and those third parties. In Order 98-004, I also said that, even if an applicant has supplied the third party's personal information, a change of circumstances between the applicant and the third party could be a relevant circumstance weighing in favour of not disclosing the third party's personal information to the applicant, particularly if the change of circumstances resulted in adverse (opposing) interests between the applicant and the third party.

[para 147.] For most of the foregoing personal information, I do not think that there are adverse interests between the Applicant and those third parties.

[para 148.] For some of the third parties' personal information, there has been a change in circumstances and adverse interests resulting. Nevertheless, in the particular context in which the information appears (such as bare lists contained in pages 983, 992, 1128, 1199, 1477 and 1480, for example), it would not be an unreasonable invasion of personal privacy to disclose the third parties' personal information, with one exception set out below.

[para 149.] Furthermore, I find that sections 16(3)(e), (f), and (h) do not apply to the personal information withheld from those records, so those provisions do not weigh in favour of not disclosing the personal information.

[para 150.] In particular, there is no unfair damage to reputation by returning some of the third parties' personal information to the Applicant who supplied it. For there to be unfair damage to reputation, the personal information would have to be disclosed to someone other than the Applicant who supplied the personal information.

[para 151.] Consequently, with one exception, I find that the relevant circumstances weigh in favour of disclosing all the third parties' personal information withheld from the records set out above.

[para 152.] The exception is page 137. There has been a change of circumstances and adverse interests between the Applicant and the third parties that weigh in favour of not disclosing the third parties' personal information contained in page 137.

ii. Records sent to the Applicant, the Applicant's spouse or their solicitors

[para 153.] The following records containing third parties' personal information were sent to the Applicant, the Applicant's spouse or their solicitors:

101, 508, 532, 533, 822, 827, 1090, 1104, 1108, 1135, 1136, 1137, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1241, 1242, 1243, 1244, 1251, 1288, 1324, 1325, 1326, 1327, 1328, 1329, 1330

[para 154.] Some of those records also contain third parties' personal information supplied by the Applicant.

[para 155.] I find that the relevant circumstances weigh in favour of disclosing the personal information contained in the following letters from the Public Body's solicitor to the Applicant's solicitor: 532 (everything severed except the middle 3 lines), and 533 (everything severed except the middle 5 lines).

[para 156.] For some of the third parties' personal information, there has been a change of circumstances between the Applicant and the third parties. However, I do not think that there are adverse interests weighing in favour of not disclosing the third parties' personal information contained in the following records, for example: 508, 1090, 1104, 1108, 1135, 1241, 1242, 1243, 1244, and 1251.

[para 157.] For some of the third parties' personal information, there has been a change in circumstances and adverse interests resulting. Nevertheless, in the particular context in which the information appears (such as personal information in letters to the Applicant's spouse's solicitor contained in pages 101 (four words), 822 (four words) and 827 (four words), for example), it would not be an unreasonable invasion of personal privacy to disclose the third parties' personal information, with one exception set out below.

[para 158.] I also find that sections 16(3)(e), (f), and (h) do not apply to the personal information withheld from those records, so those provisions do not weigh in favour of not disclosing the personal information.

[para 159.] Consequently, with one exception, I find that the relevant circumstances weigh in favour of disclosing all the third parties' personal information withheld from the records set out above.

[para 160.] The one exception is page 71. There has been a change of circumstances and adverse interests between the Applicant and the third parties that weigh in favour of not disclosing the third parties' personal information contained in page 71.

iii. Tribunal and court decisions involving the Applicant's family

[para 161.] Section 85(3) of the *Child Welfare Act* and section 7 of the *Administrative Procedures Act*, R.S.A. 1980, c. A-2, require that the tribunal furnish to the parties a written statement of its decision.

[para 162.] I find that to be a relevant circumstance weighing in favour of disclosing the third parties' personal information contained in the tribunal decision encompassing the following pages of the Records: 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, and 275.

[para 163.] I also find that the relevant circumstances weigh in favour of disclosing the personal information contained in the court decisions encompassing pages 541, 1283, 1284, 1285, and 1286.

iv. Public domain records involving the Applicant's family

[para 164.] I find that the relevant circumstances weigh in favour of disclosing the third parties' personal information contained in the following pages of the Records that are in the public domain: 360 and 1208.

v. Other records

[para 165.] I find that the relevant circumstances weigh in favour of disclosing the following records concerning the Public Body's delegation of powers and duties to the Applicant under the *Child Welfare Act*: 1192, 1193, 1194, 1195, 1196, 1197, 1344, 1345, 1346, and 1347. Furthermore, I find that section 16(3)(e), (f), and (h) do not apply.

[para 166.] On the other hand, I find that the relevant circumstances weigh in favour of not disclosing certain personal information supplied by the Applicant, but used by the Public Body in making its decisions and discussed within the Public Body's own documents in that context.

[para 167.] Furthermore, there is other personal information supplied by third parties' contained in other records for which the Public Body said that section 16 applies. Given the context, the inference can be drawn that the personal information was supplied in confidence. That personal information has also been used by the Public Body in making its decisions and is discussed within the Public Body's own documents in that context. I find that the relevant circumstances weigh in favour of not disclosing any of that personal information to the Applicant.

vi. Conclusion under section 16(3)

[para 168.] I find that the Public Body considered all the relevant circumstances and correctly decided that disclosure of the third parties' personal information would be an unreasonable invasion of the third parties' personal privacy. That personal information is contained in the Records set out in Schedules D and E of this Order.

[para 169.] I find that the Public Body did not consider all the relevant circumstances and did not correctly decide that disclosure of the third parties' personal information would be an unreasonable invasion of the third parties' personal privacy. That personal information is contained in the Records set out in Schedules F and G of this Order.

[para 170.] I have found that the relevant circumstances are such that it would not be an unreasonable invasion of third parties' personal privacy to disclose the following: 101 (four words), 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 670, 685 (13th to 17th lines), and 695 (2nd column).

d. Did the Applicant meet the burden of proof under section 67(2)?

[para 171.] Section 67(2) of the Act provides that, if the record or part of the record to which the applicant is refused access contains personal information of a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of a third party's personal privacy.

[para 172.] I have found that the Public Body did not correctly decide that disclosure of personal information would be an unreasonable invasion of the third parties' personal privacy for the information withheld from the Records, as set out in Schedules F and G of this Order. Consequently, the Applicant has no burden with respect to the personal information contained in those records.

[para 173.] I have found that the Public Body correctly decided that disclosure of personal information would be an unreasonable invasion of the third parties' personal privacy for the information withheld from the Records, as set out in Schedules D and E of this Order. Consequently, the Applicant has the burden of proving that disclosure of the third parties' personal information contained in those Records would not be an unreasonable invasion of the third parties' personal privacy.

[para 174.] I have considered the Applicant's arguments, most of which I have incorporated into my decision about whether the Public Body considered the relevant circumstances under section 16(3).

[para 175.] The Applicant further argues that it is improper to sever personal information of which the Applicant is aware. In numerous Orders, I have said that whether an applicant knows a third party's personal information is not a relevant consideration for disclosing that personal information.

[para 176.] Consequently, I find that the Applicant has not met the burden of proof for the information for which I have found that the relevant circumstances weigh in favour of not disclosing the third parties' personal information.

e. Conclusion under section 16

[para 177.] The Public Body correctly applied section 16 to the personal information withheld from the Records, as set out in Schedules D and E of this Order. I intend to order the Public Body to withhold all that personal information from the Applicant.

[para 178.] The Public Body did not correctly apply section 16 to the personal information withheld from the Records, as set out in Schedules F and G of this Order. I intend to order the Public Body to disclose that personal information to the Applicant.

[para 179.] I have found that section 16 does not apply to the personal information withheld from the following pages of the Records: 101 (four words), 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 670, 685 (13th to 17th lines), and 695 (2nd column). I intend to order the Public Body to disclose that personal information to the Applicant.

ISSUE F: Did the Public Body correctly apply section 18 (confidential evaluations) to the Records?

[para 180.] The Public Body says that section 18 applies to the following pages of the Records, which concern foster home references:

980, 986, 987, 988, 989, 990, 991, 1013, 1014, 1015, 1498, 1499, 1500, 1501, 1502, 1503

[para 181.] Section 18 reads:

18 The head of a public body may refuse to disclose to an applicant personal information that is evaluative or opinion material compiled solely for the purpose of determining the applicant's suitability, eligibility or qualifications for employment or for the awarding of government contracts or other benefits when the information is provided, explicitly or implicitly, in confidence.

[para 182.] I have already found that section 16 of the Act applies to all the information withheld from the foregoing records. Consequently, I do not find it necessary to decide whether section 18 also applies to that same information. Furthermore, the Applicant is not challenging the Public Body's application of section 18 to the foster home references.

V. ORDER

[para 183.] I make the following Order under section 68 of the Act.

Issue A: Fee waiver

[para 184.] I reduce the Applicant's fee by \$15.75, which is the photocopy charge for 63 blank pages, at twenty-five cents per page. I order the Public Body to refund that amount to the Applicant.

Issue B: Adequacy of the search and duty to assist under section 9(1)

[para 185.] The Public Body conducted an adequate search and met its duty to assist the Applicant and to respond to the Applicant openly, accurately and completely, with two exceptions.

[para 186.] First, as to the search, the Public Body has not said whether the telephone conversation referred to by the Applicant and inadvertently

taped on a contractor's telephone answering machine exists and whether it is in the Public Body's custody or control.

[para 187.] I order the Public Body to inform me and the Applicant whether that record exists and, if so, whether it is in the Public Body's custody (possession) or under its control.

[para 188.] If the Public Body does not know whether it has custody (possession), I order the Public Body to conduct a further search and to report to me and to the Applicant about the search conducted and the results of that search. If the Public Body has custody of that tape, I order it to inform me and the Applicant whether it will disclose the tape. If it will disclose the tape, I order it to do so without any cost to the Applicant.

[para 189.] If the tape is in the custody (possession) of the contractor, then I accept that the Public Body does not have control over a contractor's telephone answering machine and the resulting tape, unless there is an agreement for that control. I order the Public Body to also report to me and to the Applicant whether there is an agreement for that control, in which case I further order the Public Body to inform me and the Applicant whether it will disclose the tape (at no cost).

[para 190.] Second, I order the Public Body to provide the Applicant with pages 597 and 646 that have not been cut off, at no cost.

Issue C: Application of section 5(2) (paramountcy)

[para 191.] The Public Body correctly determined that section 5(2) of the Act applies to the names and other identifying information of persons who reported under the *Child Welfare Act*, as provided by section 91(4) of the *Child Welfare Act*. That information withheld by the Public Body is contained in the Records, as set out in Schedule A of this Order.

[para 192.] I have found that section 5(2) of the Act also applies to the names and other identifying information of persons who reported under the *Child Welfare Act*, contained in the first sentence of the information withheld on page 601.

[para 193.] Consequently, the Act does not apply to the information, and I have no jurisdiction over disclosure of that information on the Applicant's access request. The Applicant cannot get access to the information under the Act.

[para 194.] The Public Body did not correctly determine that section 5(2) of the Act applies to the information withheld from the Records, as set

out in Schedule B of this Order. The information withheld from those Records is subject to the Act, and I have jurisdiction over that information. That information remains to be considered under other exceptions of the Act.

Issue D: Application of section 26 (privileged information)

[para 195.] The Public Body correctly applied section 26(1)(a) (solicitor-client privilege) and exercised its discretion properly with respect to the following:

89, 93-94, 102-103, 117, 124, 131, 144, 149, 157, 387, 417, 424 (1st severed item), 472 (2nd severed item), 474 (2nd severed item), 480 (1st severed item), 483, 485, 487 (2nd severed item), 500-501, 502, 503-505, 509, 512-513, 521, 522, 529, 673, 683, 684, 685 (1st to 12th lines), 687, 689, 691, 694, 695 (1st column), 696, 713, 721, 825-826, 842, 845, 1248-1249, 1259-1260, 1263-1265, 1290-1291, 1292-1293, 1294, 1296, 1302, 1305-1306, 1317, 1461-1462

[para 196.] I uphold the Public Body's decision to refuse to disclose that information or those records. I order the Public Body not to disclose that information or those records.

[para 197.] The Public Body did not correctly apply section 26(1)(a) (solicitor-client privilege) to the following:

101 (four words), 424 (2nd to 4th severed items), 434, 472 (1st severed item), 474 (1st severed item), 480 (2nd and 3rd severed items), 487 (1st severed item), 508 (four words), 532, 533, 670, 685 (13th to 17th lines), 695 (2nd column), 822 (four words), 827 (four words)

[para 198.] The Public Body did not correctly apply section 26(2) to the following, although the Public Body did correctly apply section 26(1)(a):

149, 500, 501, 502, 513, 1264, 1265, 1462

[para 199.] The Public Body did not correctly apply section 26(1)(b) to any of the records to which the Public Body also did not correctly apply section 26(1)(a).

[para 200.] The Public Body correctly applied section 26(1)(c) to pages 532 (middle 3 lines) and 533 (middle 5 lines).

[para 201.] The Public Body did not correctly apply section 26(1)(c) to the following:

101 (four words), 508 (four words), 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 822 (four words), and 827 (four words)

[para 202.] The Public Body did not exercise its discretion properly under section 26(1)(c) with respect to pages 532 (middle 3 lines) and 533 (middle 5 lines). I do not uphold the Public Body's decision to refuse to disclose that information. I order the Public Body to reconsider its decision as to withholding page 532 (middle 3 lines) and page 533 (middle 5 lines).

[para 203.] As to the information or records to which the Public Body did not correctly apply section 26(1)(b), the Public Body has listed those records to be considered under section 16, except pages 670, 685 (13th to 17th lines) and 695. However, as pages 670, 685 (13th to 17th lines), and 695 (2nd column) contain personal information of third parties, I intend to consider them under section 16.

[para 204.] As to the information or records to which the Public Body did not correctly apply section 26(1)(c), the Public Body has listed pages 508, 822 and 827 to be considered under section 16. I also intend to consider the following under section 16: page 101 (four words), because that page contains personal information, and that page is the same record as pages 822 and 827; 532 (everything severed except the middle 3 lines), and 533 (everything severed except the middle 5 lines).

Issue E: Application of section 16 (personal information)

[para 205.] The Public Body correctly applied section 16 to the personal information withheld from the Records, as set out in Schedules D and E of this Order. I order the Public Body to withhold that personal information from the Applicant.

[para 206.] The Public Body did not correctly apply section 16 to the personal information withheld from the Records, as set out in Schedules F and G of this Order. I order the Public Body to disclose that personal information to the Applicant.

[para 207.] I have found that section 16 does not apply to the personal information withheld from the following pages of the Records: 101 (four words), 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 670, 685 (13th to 17th lines), and 695 (2nd column). I order the Public Body to disclose that personal information to the Applicant.

[para 208.] With this Order, and for clarity, I have provided the Public Body with highlighted copies of the pages of the Records for which I have ordered the Public Body to disclose only part of the information to the Applicant.

Issue F: Application of section 18 (confidential evaluations)

[para 209.] I have already found that section 16 of the Act applies to all the information in the records to which the Public Body said that section 18 applies. Consequently, I do not find it necessary to decide whether section 18 also applies to that same information.

[para 210.] I further order that the Public Body notify me in writing, within 50 days of being given a copy of this Order, that the Public Body has complied with this Order.

Robert C. Clark
Information and Privacy Commissioner

SCHEDULE A

The Public Body correctly determined that section 5(2) of the Act applies to the names and other identifying information of persons who reported a child in need of protective services, as provided by section 3 and section 91(4) of the *Child Welfare Act*. That information is contained in the following pages of the Records:

171 (2nd severed item), 174 (severed items following the heading), 175 (end of the 1st sentence and the 5th to 8th words in the 2nd sentence of the 1st paragraph; 6th sentence in the 2nd paragraph; last sentence in the 3rd paragraph), 179 (last 2 sentences in the 1st severed item), 183, 184 (end of the 1st sentence and the 5th to 7th words in the 2nd sentence of the 2nd paragraph; last sentence in the 4th paragraph), 197, 216 (end of the 2nd sentence in the 2nd paragraph; 4th sentence in the 2nd paragraph), 325 (1st and last sentences in the 1st severed item; last severed item), 326 (severing in the 1st to 5th lines), 327 (severed items at the top of the page; 1st to 4th lines; 10th and 11th lines), 331 (1st to 7th lines), 337 (1st line; 6th to 10th lines), 374, 382 (everything severed except the 1st half of the 1st line and the last 4 lines), 437, 547 (severing in the 1st and 2nd lines of the 1st paragraph; 2nd paragraph), 602 (4th severed item; first 4 words of the 5th severed item), 615 (first 5 words of the 1st severed item; last severed item), 616 (1st to 3rd lines and first 5 words in the 4th line of the 1st severed item; 3rd and last sentences in the 4th severed item), 621 (1st sentence at the top of the page; last paragraph), 622 (end of the 1st sentence and the 4th sentence in the 2nd paragraph), 626 (everything severed except the 2nd last severed item), 627, 629 (2 severed items at the top of the page), 631, 632, 633, 634 (3rd and 4th paragraphs), 636 (1st, 2nd, 6th and 7th severed items in the 1st paragraph; the 2nd paragraph; severed items in the 3rd paragraph; severed item in the 6th paragraph), 638 (severed items in the 4th, 10th, 13th and 14th paragraphs), 640 (1st severed item), 641 (last severed item), 642 (end of the 1st sentence and the 5th to 8th words of the 2nd sentence in the 2nd paragraph; 6th sentence in the 3rd paragraph; last sentence in the 4th paragraph; 8th paragraph), 648 (2nd last and last severed items), 649 (1st severed item in the 3rd paragraph; last 14 words of the 4th severed item in the 3rd paragraph), 658, 731 (severing in the 2nd sentence), 763 (2nd last and last severed items), 764 (1st severed item in the 3rd paragraph; last 14 words of the 4th severed item in the 3rd paragraph), 797 (2nd last and last severed items), 798 (1st and 4th severed items in the 3rd paragraph), 810, 892 (1st, 2nd, and 4th severed items), 893 (severing in the 3rd to 6th lines; first 5 words in the 7th line; 3rd sentence in the last severed item), 894, 895, 950 (2nd sentence in the 1st severed item; last severed item), 1349 (severed items in the 4th paragraph), 1360, 1421 (severing in the 4th and 5th lines; severing in the 1st and 4th paragraphs), 1422 (2nd severed item), 1512 (2nd and 3rd lines in the 2nd severed item)

SCHEDULE B

The Public Body did not correctly determine that section 5(2) of the Act applies to the names and other identifying information of persons who reported a child in need of protective services, as provided by section 3 and section 91(4) of the *Child Welfare Act*. That information is contained in the following pages of the Records:

4, 6, 71, 94, 103, 169, 170, 171 (1st severed item), 172, 174 (severed items preceding the heading), 175 (everything severed except the end of the 1st sentence and the 5th to 8th words in the 2nd sentence of the 1st paragraph, the 6th sentence in the 2nd paragraph, and the last sentence in the 3rd paragraph), 179 (end of the sentence in the 1st severed item; 2nd severed item), 182, 184 (everything severed except the end of the 1st sentence and the 5th to 7th words in the 2nd sentence of the 2nd paragraph, and the last sentence in the 4th paragraph), 206, 209, 211, 212, 216 (severing in the 3rd sentence of the 2nd paragraph), 220, 223, 225, 230, 233, 236, 250, 264, 268, 269, 271, 277, 315, 325 (everything severed except the 1st and last sentences in the 1st severed item, and the last severed item), 326 (everything severed except severing in the 1st to 5th lines), 327 (5th to 9th lines; 12th to 14th lines), 331 (severed item at the top of the page; 8th to 16th lines), 332, 336, 337 (severed item at the top of the page; 2nd to 5th lines), 348, 357, 359, 361, 369, 373, 380, 382 (1st half of the 1st line; last 4 lines), 383, 384, 385, 399, 417, 434, 482, 483, 485, 493, 494, 500, 504, 505, 544, 547 (severing in the 3rd to 8th lines of the 1st paragraph), 549, 550, 599, 602 (everything severed except the 4th severed item, and the first 4 words of the 5th severed item), 615 (last 8 words of the 1st severed item; 2nd severed item), 616 (everything severed except the 1st to 3rd lines and the first 5 words in the 4th line of the 1st severed item, and the 3rd and last sentences in the 4th severed item), 618, 619, 620, 621 (everything severed except the 1st sentence at the top of the page, and the last paragraph), 622 (everything severed except the end of the 1st sentence and the 4th sentence in the 2nd paragraph), 626 (2nd last severed item), 629 (everything severed except the 2 severed items at the top of the page), 634 (1st and 5th paragraphs), 635, 636 (3rd to 5th severed items in the 1st paragraph; severed items in the 5th, 7th and 9th paragraphs; 10th paragraph), 638 (severed items in the 2nd paragraph; 6th paragraph; severed item in the 7th paragraph), 639, 640 (2nd and 3rd severed items), 641 (everything severed except the last severed item), 642 (everything severed except the end of the 1st sentence and the 5th to 8th words of the 2nd sentence in the 2nd paragraph, the 6th sentence in the 3rd paragraph, the last sentence in the 4th paragraph, and the 8th paragraph), 648 (1st to 3rd severed items), 649 (everything severed except the 1st severed item in the 3rd paragraph, and last 14 words of the 4th severed item in the 3rd paragraph), 650, 652, 653, 655, 669, 701, 717, 731 (severing in the 1st sentence), 763 (1st to 3rd severed items), 764

(everything severed except the 1st severed item in the 3rd paragraph, and the last 14 words of the 4th severed item in the 3rd paragraph), 765, 766, 767, 797 (1st to 3rd severed items), 798 (everything severed except the 1st and 4th severed items in the 3rd paragraph), 799, 801, 822, 826, 827, 833, 837, 863, 864, 866, 892 (3rd severed item), 893 (everything severed except severing in the 3rd to 6th lines, the first 5 words in the 7th line, and the 3rd sentence in the last severed item), 916, 950 (severing in the 1st sentence of the 1st severed item), 976, 1294, 1349 (severed item at the top of the page; 3rd paragraph), 1350, 1417, 1418, 1419, 1420, 1421 (everything severed except the severing in the 4th and 5th lines, and severing in the 1st and 4th paragraphs), 1422 (1st severed item), 1424, 1425, 1492, 1493, 1512 (everything severed except the 2nd and 3rd lines in the 2nd severed item), 1615, 1621, 1677, 1678

SCHEDULE C

The following are the pages of the Records considered under section 16, as set out in the Public Body's index of records:

4, 6, 47, 65, 71, 72, 73, 74, 75, 76, 77, 78, 81, 82, 83, 85, 86, 87, 88, 108, 114, 115, 119, 120, 134, 135, 137, 169, 170, 171, 172, 173, 174, 175, 176, 179, 180, 181, 182, 184, 185, 200, 201, 202, 204, 205, 206, 209, 211, 212, 215, 216, 219, 220, 222, 223, 225, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 244, 245, 246, 248, 250, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 277, 290, 295, 296, 297, 298, 299, 300, 302, 314, 315, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 336, 337, 338, 341, 343, 345, 346, 347, 348, 349, 350, 352, 354, 355, 357, 358, 359, 360, 361, 362, 368, 369, 370, 371, 372, 373, 375, 376, 377, 378, 379, 380, 382, 383, 384, 385, 389, 398, 399, 405, 407, 411, 418, 422, 423, 424, 425, 426, 428, 429, 430, 431, 432, 434, 435, 436, 438, 439, 440, 441, 442, 443, 444, 446, 447, 451, 454, 456, 458, 462, 465, 466, 467, 468, 470, 471, 472, 473, 474, 475, 476, 478, 480, 481, 482, 484, 486, 487, 493, 494, 508, 541, 544, 547, 549, 550, 555, 564, 583, 591, 592, 595, 599, 600, 601, 602, 611, 615, 616, 618, 619, 620, 621, 622, 623, 624, 625, 626, 629, 634, 635, 636, 638, 639, 640, 641, 642, 646, 648, 649, 650, 651, 652, 653, 655, 669, 675, 677, 678, 682, 701, 711, 715, 716, 717, 731, 748, 749, 763, 764, 765, 766, 767, 797, 798, 799, 800, 801, 822, 827, 833, 837, 863, 864, 866, 892, 893, 916, 950, 976, 979, 980, 983, 986, 987, 988, 989, 990, 991, 992, 993, 1003, 1007, 1008, 1009, 1010, 1013, 1014, 1015, 1017, 1026, 1034, 1042, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1092, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1108, 1109, 1127, 1128, 1133, 1134, 1135, 1136, 1137, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1199, 1208, 1215, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1228, 1229, 1241, 1242, 1243, 1244, 1251, 1254, 1255, 1266, 1274, 1276, 1283, 1284, 1285, 1286, 1288, 1299, 1300, 1301, 1311, 1312, 1313, 1314, 1316, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1344, 1345, 1346, 1347, 1349, 1350, 1351, 1354, 1355, 1356, 1357, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1393, 1396, 1398, 1399, 1400, 1415, 1417, 1418, 1419, 1420, 1421, 1422, 1424, 1425, 1427, 1433, 1434, 1442, 1443, 1451, 1452,

1454, 1455, 1456, 1457, 1458, 1459, 1460, 1472, 1474, 1477, 1478,
1479, 1480, 1482, 1484, 1485, 1486, 1487, 1489, 1490, 1491, 1492,
1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503,
1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514,
1515, 1519, 1520, 1615, 1621, 1677, 1678

SCHEDULE D

The Public Body correctly applied section 16 to all the personal information withheld from the following pages of the Records:

4, 6, 47, 71, 72, 73, 74, 75, 76, 77, 78, 81, 82, 83, 85, 86, 87, 88, 114, 115, 119, 120, 137, 169, 170, 172, 173, 180, 182, 200, 201, 202, 204, 205, 206, 209, 211, 212, 215, 219, 220, 222, 223, 225, 227, 228, 229, 230, 231, 232, 233, 234, 235, 245, 246, 248, 250, 277, 295, 296, 297, 298, 299, 300, 302, 314, 315, 332, 333, 334, 336, 338, 341, 343, 345, 346, 347, 348, 349, 350, 352, 354, 355, 357, 358, 359, 361, 362, 368, 369, 370, 371, 372, 375, 376, 378, 379, 380, 385, 389, 398, 399, 405, 407, 411, 418, 422, 423, 425, 426, 428, 429, 430, 432, 435, 436, 438, 439, 440, 441, 442, 443, 444, 446, 447, 451, 454, 456, 458, 465, 466, 467, 468, 470, 471, 473, 475, 476, 478, 482, 484, 486, 493, 494, 544, 549, 550, 555, 564, 583, 591, 592, 595, 599, 600, 611, 618, 619, 620, 623, 624, 625, 635, 639, 646, 650, 651, 652, 653, 655, 669, 675, 677, 678, 682, 701, 711, 715, 716, 717, 765, 766, 767, 799, 800, 801, 833, 837, 863, 866, 916, 976, 986, 988, 990, 993, 1003, 1013, 1014, 1015, 1017, 1026, 1042, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1087, 1088, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1191, 1215, 1266, 1274, 1300, 1301, 1350, 1354, 1355, 1356, 1357, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1393, 1396, 1398, 1399, 1400, 1417, 1418, 1419, 1420, 1424, 1425, 1433, 1434, 1442, 1443, 1451, 1455, 1456, 1457, 1458, 1459, 1460, 1472, 1474, 1478, 1484, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1507, 1508, 1509, 1510, 1511, 1513, 1514, 1515, 1615, 1621, 1677, 1678

All the personal information withheld from the foregoing pages must not be disclosed to the Applicant.

SCHEDULE E

The Public Body correctly applied section 16 to certain personal information withheld from the following pages of the Records:

65 (two segments of personal information); 236 (last severed item), 244 (severed items in the middle of the page), 373 (everything severed except the 1st line of the 1st severed item and the first 3 lines of the 2nd severed item), 377 (severed item in the middle of the page), 384 (everything severed except the 1st severed line), 431 (1st to 3rd severed items), 434 (everything severed except the last 9 lines), 462 (2nd severed item), 602 (everything severed in the 5th severed item, excluding the information to which section 5(2) applies), 622 (everything severed in the 2nd severed item, excluding the information to which section 5(2) applies; the 3rd severed item), 648 (everything severed except the 2nd severed item, and excluding the information to which section 5(2) applies), 649 (everything severed except the severing in the 5th line and the first 3 words in the 6th line of the 3rd paragraph, and excluding the information to which section 5(2) applies), 763 (everything severed except the 2nd severed item, and excluding the information to which section 5(2) applies), 764 (everything severed except the severing in the 5th line and the first 3 words in the 6th line of the 3rd paragraph, and excluding the information to which section 5(2) applies), 797 (everything severed except the 2nd severed item, and excluding the information to which section 5(2) applies), 864 (1st severed item; 10th to 14th words of the 2nd severed item), 987 (name and address of the third party), 989 (name and address of the third party), 991 (name and address of the third party);

All the personal information severed on the following pages, excluding the information to which section 5(2) applies: 171, 174, 175, 179, 184, 216, 325, 326, 327, 331, 337, 547, 601, 615, 616, 621, 626, 629, 634, 636, 638, 640, 641, 642, 731, 798, 892, 893, 950, 1349, 1421, 1422, 1512;

All the personal information severed on the following pages, excluding the information to which section 26(1)(a) applies: 424, 472, 474, 480, 487

All the foregoing personal information withheld must not be disclosed to the Applicant.

SCHEDULE F

The Public Body did not correctly apply section 16 to all the personal information withheld from the following pages of the Records:

108, 134, 135, 176, 181, 185, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 290, 328, 329, 330, 360, 383, 481, 508 (four words), 541, 748, 749, 822 (four words), 827 (four words), 979, 980, 983, 992, 1007, 1008, 1009, 1010, 1034, 1086, 1089, 1090, 1092, 1104, 1108, 1109, 1127, 1128, 1133, 1134, 1135, 1136, 1137, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1192, 1193, 1194, 1195, 1196, 1197, 1199, 1208, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1228, 1229, 1241, 1242, 1243, 1244, 1251, 1254, 1255, 1276, 1283, 1284, 1285, 1286, 1288, 1299, 1311, 1312, 1313, 1314, 1316, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1344, 1345, 1346, 1347, 1351, 1415, 1427, 1452, 1454, 1477, 1479, 1480, 1482, 1485, 1486, 1487, 1496, 1497, 1506, 1519, 1520

All the personal information withheld from the foregoing pages must be disclosed to the Applicant.

I have found that section 16 does not apply to all the personal information withheld from pages 101 (four words) and 670. All the personal information withheld from those pages must be disclosed to the Applicant.

SCHEDULE G

The Public Body did not correctly apply section 16 to certain personal information withheld from the following pages of the Records:

65 (everything severed except two segments of personal information), 236 (everything severed except the last severed item), 244 (severed items at the top of the page), 373 (1st line of the 1st severed item; first 3 lines of the 2nd severed item), 377 (severed items on the left side of the page), 382 (1st half of the 1st severed line; last four severed lines), 384 (1st severed line), 431 (4th and 5th severed items), 434 (last 9 lines), 462 (1st severed item), 602 (1st, 2nd and 3rd severed items), 622 (1st severed item), 648 (2nd severed item), 649 (severing in the 5th line and the first 3 words in the 6th line of the 3rd paragraph), 763 (2nd severed item), 764 (severing in the 5th line and the first 3 words in the 6th line of the 3rd paragraph), 797 (2nd severed item), 864 (2nd severed item except the 10th to 14th words), 987 (everything severed except the third party's name and address), 989 (everything severed except the third party's name and address), 991 (everything severed except the third party's name and address)

All the foregoing personal information withheld must be disclosed to the Applicant.

I have found that section 16 does not apply certain personal information withheld from the following pages of the Records: 532 (everything severed except the middle 3 lines), 533 (everything severed except the middle 5 lines), 685 (13th to 17th lines), and 695 (2nd column). All that personal information withheld must be disclosed to the Applicant.