ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2020-02

February 20, 2020

PEACE RIVER SCHOOL DIVISION NO. 10

Case File Number 005803

Office URL: www.oipc.ab.ca

Summary: Peace River School Division No. 10 (the Public Body) issued a Trespass Notice against the Applicant. The Applicant made an access request seeking records that would identify the individuals responsible for it. In response to the access request, the Public Body provided copies of three of its policies, and one e-mail previously sent to it from the Applicant. The remainder of the responsive records consist of four e-mail chains and their attachments.

The e-mails and attachments were collectively withheld under ss. 16(1), 18, and 27(1)(a) and (c) of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 (the Act). The Applicant sought review of the application of these sections, and of whether the Public Body met its duty to assist under s. 10(1) of the Act. Mediation and investigation did not resolve the issues between the parties, and the matter proceeded to an inquiry.

The Applicant was concerned that the Adjudicator was biased in favour of the Public Body. The Applicant previously made complaints to the Alberta Human Rights Commission when the Adjudicator was employed there. The Adjudicator was satisfied that he is independent from his previous employment and that he could hear the inquiry free from bias.

The Adjudicator found that the Public Body failed to establish that it fulfilled its duties under s. 10(1). The Public Body's only supporting evidence on key details of the search for responsive records was hearsay.

The evidence took the form of an affidavit sworn by its Secretary Treasurer attesting to what its former FOIP Coordinator advised had been done in response to the access request. Certain passages from the affidavit also contained double hearsay in the form of statements of what the FOIP Coordinator advised the Secretary Treasurer that other individuals had told the FOIP Coordinator.

In light of the third-hand nature of the evidence in the affidavit, the unspecified circumstances under which the FOIP Coordinator advised the Secretary Treasurer, lack of records from individuals directly involved in the response to the access request, and lack of an explanation of why those individuals had not provided their own evidence, the Adjudicator could not afford significant weight to the hearsay evidence.

The Adjudicator found that the Public Body had properly withheld information under ss. 27(1)(a) and (c), but not ss. 16(1) or 18. Since the information improperly withheld under s. 16(1) and 18 was the same information properly withheld under ss. 27(1) and (c), the Adjudicator did not order the Public Body to provide those records, or reconsider its application of ss. 16(1) or 18.

The Adjudicator ordered the Public Body to respond to the access request as required by s. 10(1).

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 10(1), 16(1), 18, 27(1)(a) and (c), 72.

Authorities Cited: AB: Orders 96-007, 2000-030, F2004-008, F2007-029, F2017-57.

Cases Cited: *Solosky v. The Queen*, [1980] 1 S.C.R. 821.

I. BACKGROUND

[para 1] On March 13, 2017, the Applicant made a request for access to information from Peace River School Division No. 10 (the Public Body). The Applicant's access request sought the following information:

> Any and all information concerning who made the decision to issue the [Trespass] Notice against [the Applicant] on [date]. I would like to specifically be informed of whom is responsible for giving the go ahead for this to be issued. (Who had the authority?)

[para 2] The Applicant clarified the request in a letter:

> I am asking the Peace River School Division No.10 to provide me with **any and all information** which concerns the specific decision of issuing the **Trespass Notice against me on [date],** which was delivered to me on [date]. I am requesting the specifics of this

> decision and all information behind it and who made the decision. For example: Did the Board of Trustees vote on this decision, who authorized this decision and the details on how this was approved. **(Any and all information** that led to this decision being made and who had the authority). Basically, all the details that will lead me to who is responsible for authorizing this decision. [emphasis in the original].

[para 3] The Public Body responded to the request on April 7, 2017. The Public Body provided the Applicant with copies of three of its policies: Policy 2: Role of the Board, Policy 11: Board Delegation of Authority, and Policy 12: Role of the Superintendent. The Public Body also provided a copy of an e-mail from the Applicant to one of its employees. All other responsive information was withheld under s. 27(1)(a) on the basis that it is subject to solicitor-client privilege.

[para 4] On April 20, 2017, the Applicant filed a request for review with the Office of the Information and Privacy Commissioner. The Applicant sought review of the application of s. 27 and whether the Public Body met its obligations under s. 10(1).

[para 5] Investigation and mediation were authorized to resolve the matter. During the investigation/mediation stage, the Public Body changed its position regarding attachments to some of the e-mails and ceased relying on s. 27(1)(a) to withhold them; instead relying on ss. 16(1)(b), 18, and 27(1)(c). The application of those sections then became an issue along with the issue of the application s. 27(1)(a). Since investigation/mediation did not resolve the matter, it proceeded to inquiry.

II. RECORDS AT ISSUE

[para 6] The records at issue are four documents that consist of e-mail chains and their attachments. The documents are numbered five through eight in the index of records. I will refer to them by those numbers. All were withheld in response to the access request.

III. ISSUES

[para 7] The Notice of Inquiry set out five issues to be determined:

A. Did the Public Body meet its obligations required by section 10(1) of the Act (duty to assist applicants)?

B. Did the Public Body properly apply section 27(1)(a) of the Act (privileged information) apply to the information severed from the records?

C. Did the Public Body properly apply section 27(1)(c) (privileged information) to the attachment?[1]

[1] For the sake of clarity, I comment briefly on the wording of Issue C, and the reference to "privileged information" in it. In the Act, "Privileged Information" is the header for all of s. 27(1), notwithstanding that many of its subsections, including s. 27(1)(c), do not directly engage privileged information. Including the words "privileged information" in Issue C is a reference to the broader section of the Act that it is a part of. It does not indicate that s. 27(1)(c) only applies to privileged information.

D. Does section 16(1)(b) (disclosure harmful to business interests) require the Public Body to withhold the attachment?

E. Did the Public Body properly apply section 18 of the Act (disclosure harmful to individual or public safety) to the attachment?

[para 8] The Applicant has raised many new issues in their submissions. The only matter properly before me is the review of how the Public Body responded to the access request, and this order is accordingly limited to discussion of those issues, listed above.

[para 9] The Applicant has also argued that I am biased in favour of the Public Body. I address this concern below.

IV. DISCUSSION OF ISSUES

Preliminary Matter – Bias

[para 10] The Applicant asserts that Alberta Justice and Solicitor General is involved in or orchestrating efforts among various government agencies to suppress the truth of what happened between the Applicant and the Public Body. Among the agencies purportedly involved is the Alberta Human Rights Commission (AHRC), which is associated with Alberta Justice and Solicitor General (Alberta Justice).

[para 11] The Applicant has had matters before the AHRC that also involved the Public Body. At the same time, I was Acting Director of the AHRC. The Applicant believes I am biased in light of my previous position and will "ignore contraventions of the Act." The Applicant posits that Alberta Justice instructed the AHRC to deal with their human rights complaints as it saw fit, and that it has instructed me in the same way regarding this inquiry. The Applicant's theory is that if the information they are requesting comes to light, they will be able to use it to reveal the government conspiracy and compromise its actors. I infer that the Applicant believes that I am part of the conspiracy and will decide the issues in the inquiry in the way that protects those conspirators, and consequently myself. This is not the case.

[para 12] The Information and Privacy Commissioner reports directly to the Legislature, and is independent of the Government of Alberta and Alberta Justice. I have not been instructed on how to proceed with this inquiry in any manner, by any person. I neither owe nor hold any allegiance to my former colleagues. I was not involved in the Applicant's AHRC matters, which were decided by the previous Director of the AHRC.

[para 13] The issues in this inquiry relate only to how the Public Body responded to the access request. My review of it does not consider what use the Applicant may make of any records obtained or their purpose for seeking them. I am only concerned with whether the Public Body properly responded to the Applicant's access request.

[para 14] I am satisfied that this inquiry is free from bias on my part.

A. Did the Public Body meet its obligations required by section 10(1) of the Act (duty to assist applicants)?

[para 15] Section 10(1) states as follows:

> *10(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 16] The two parts of the duty to assist in s. 10(1) were set out in Order F2004-008 at para 32:

- Did the Public Body make every reasonable effort to assist the Applicant and to respond to the Applicant openly, accurately and completely, as required by section 10(1) of FOIP?

- Did the Public Body conduct an adequate search for responsive records, and thereby meet its duty to the Applicant, as required by section 10(1) of FOIP?

[para 17] The Applicant's position that the Public Body failed to meet the duty to assist rests upon the fact that the records provided did not reveal who made the decision to issue the Trespass Notice. In the Request for Inquiry, the Applicant proposes that if the Board of Trustees of the Public Body was involved, there ought to be minutes from the meetings where it discussed the Trespass Notice.

[para 18] The burden of proof falls on the Public Body to demonstrate that it met its duty under s. 10(1). (See Order 97-006.) A public body must provide the Commissioner with sufficient evidence to show that the public body has made a reasonable effort to identify and locate records responsive to the request. (See Order 2000-030.) Former Commissioner Work, Q.C. described the general points that a public body's evidence should cover in Order F2007-029 at para. 66:

> In general, evidence as to the adequacy of a search should cover the following points:
>
> - The specific steps taken by the Public Body to identify and locate records responsive to the Applicant's access request
>
> - The scope of the search conducted – for example: physical sites, program areas, specific databases, off-site storage areas, etc.
>
> - The steps taken to identify and locate all possible repositories of records relevant to the access request: keyword searches, records retention and disposition schedules, etc.
>
> - Who did the search
>
> - Why the Public Body believes no more responsive records exist than what has been found or produced

[para 19] The Public Body's evidence in this case is an affidavit sworn by its Secretary Treasurer (the Affidavit) that describes, to the Secretary Treasurer's knowledge and belief, the steps taken in response to the access request. For the reasons that follow, I find that this evidence is insufficient to meet the Public Body's burden of proof to establish that it met its obligations under s. 10(1).

[para 20] Crucially, the Secretary Treasurer is not the one who coordinated the response to the access request; the Public Body's former Corporate Secretary and FOIP Coordinator (the FOIP Coordinator) handled the request. The FOIP Coordinator is no longer employed by the Public Body and, according to the Secretary Treasurer, was unavailable to swear an affidavit. In the FOIP Coordinator's absence, the Secretary Treasurer provides evidence of what the FOIP Coordinator advised the Secretary Treasurer about the Public Body's response to the access request. The Secretary Treasurer's evidence is hearsay in this regard.

[para 21] While I may accept hearsay evidence, I must also consider what, if any, weight to give it. While I find that the Affidavit provides a reliable basis from which to determine some of the activities undertaken to identify and locate responsive records, and to establish who did the search, it is insufficient to establish any of the other points listed in Order F2007-029 above.

[para 22] The Affidavit includes, as Exhibit "B", the Public Body's initial letter in response to the access request. The letter, dated April 7, 2017, is signed by the FOIP Coordinator. It contains the following passage:

> As the FOIP Coordinator, I have checked our records management system, emails of Superintendent, employee and principal, I have personally contacted the Superintendent, legal services, the Principal, and the employee. [sic]

[para 23] While I have no evidence directly from the FOIP Coordinator about the veracity of the letter, I note that it is the same one that the Applicant provided with the initial request for review. It does appear to be the letter prepared by the FOIP Coordinator at the time of the response to the request. To the extent that the Secretary Treasurer attests to being advised by the FOIP Coordinator of the activities described in the above passage, I find the hearsay evidence in the affidavit reliable. I may afford it sufficient weight to conclude that the Public Body undertook those activities in response to the access request.

[para 24] Similarly, I find that I may afford sufficient weight to the letter to conclude that the FOIP Coordinator was the one who organized the search.

[para 25] Other than the initial letter in response to the access request, the Public Body submitted no other records from the FOIP Coordinator. For other activities taken in response to the access request, I am left with only the Secretary Treasurer's word of what the FOIP Coordinator advised. The lack of supportive records leaves considerable room for uncertainty about other key details of the response to the access request. I discuss several particularly problematic statements from the Affidavit below.

[para 26] The Secretary Treasurer swears that the FOIP Coordinator advised that he/she interviewed a Principal and a Superintendent employed by the Public Body, and the Public Body's legal counsel about the access request. These interviews are described in paragraphs 15, 17, and 19 of the Affidavit. The Secretary Treasurer then states,

> I am advised by [the FOIP Coordinator] and do verily believe that in conducting the interviews described herein at paragraphs 15, 17 and 19, [the FOIP Coordinator] was told that many of the initial conversations respecting the incident described in the Trespass Notice took place via telephone, with no record of the telephone conversation having been taken, as a result of the incident described in the Trespass Notice having taken place on a Friday evening.

[para 27] And regarding the Principal, specifically:

> I am advised by [the FOIP Coordinator] and do verily believe that on or about [date], [the Principal] advised [them] that [they] did not have any records responsive to the FOIP Request as [their] involvement in the matter was limited to telephone conversations and the telephone conversations were not recorded.

[para 28] At these points, the affidavit engages in double hearsay. The Secretary Treasurer is testifying to what the FOIP Coordinator advised other people said. There are no records from the individuals detailing their involvement in the response to the access request. There is also no explanation of why, in the absence of the FOIP Coordinator, at least the Principal and Superintendent, as employees, could not provide their own evidence about their conversations about the Trespass Notice, and their own involvement in the search for responsive records.

[para 29] Similarly, while I am alive to the practical reality that a departed employee may not want to cooperate with a former employer by swearing an affidavit, there is no explanation of how or when the FOIP Coordinator was available to advise the Secretary Treasurer but not available to swear an affidavit. I am unable to determine that the circumstances under which the FOIP Coordinator advised the Secretary Treasurer lend reliability to the hearsay statements.

[para 30] I also note that the first passage from the affidavit of the Secretary Treasurer above is specific to "many" of the "initial" conversations about the incident that led to the Trespass Notice. The double qualified wording suggests that there were other initial conversations, and further conversations after the initial ones. I have no way of determining, on the evidence before me, that the full scope of conversations was taken into account during the search for records and whether there may be records of later conversations, if any.

[para 31] In respect of,

- The third-hand nature of the evidence in the Secretary Treasurer's Affidavit,
- The unspecified circumstances under which the hearsay statements were gathered,

- The absence of records from the FOIP Coordinator,

- The absence of records from the individuals; and,

- The unexplained dearth of evidence from those directly involved in responding to the access request,

I cannot give further significant weight to the evidence in the Affidavit than I already have.

[para 32] Other than establishing some of the activities that were undertaken in response to the access request, and who did the search as described above, there is no reliable evidence on which to determine that the Public Body met its duty under s. 10(1). In particular, evidence establishing the following, is lacking:

- The full scope of activities undertaken in response to the access request

- The scope of the search conducted, including whether the Public Body searched for records of all conversations

- The steps taken by individuals contacted by the FOIP Coordinator to identify and locate all possible repositories of records relevant to the access request

- Why the Public Body believes no more responsive records exist than what has been found or produced

[para 33] Regarding the last point above, the Public Body argues that it determined that no further records exist "in part, because….many of the initial discussions took place over the phone, with no records of the telephone conversations having been taken." The explanation is only a partial explanation, and the Affidavit itself is silent on how those handling the access request determined that no further records exist.

[para 34] The result is that the Public Body has failed to meet the burden of proof to establish that it met its duty under s. 10(1).

[para 35] I find that the Public Body has failed to establish that it met its obligations under s. 10(1).

B. Did the Public Body properly apply section 27(1)(a) of the Act (privileged information) apply to the information severed from the records?

[para 36] Section 27(1)(a) states as follows:

27(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 37] The Public Body provided the records subject to solicitor-client privilege for my review.

[para 38] The Public Body applied s. 27(1)(a) to the e-mails in documents five through eight, as well as the attachments to the e-mails in documents seven and eight. It argues that the withheld information is subject to solicitor-client privilege.

[para 39] The Supreme Court of Canada described the test for determining whether solicitor-client privilege attaches to a document in *Solosky v. The Queen*, [1980] 1 S.C.R. 821, at p. 837:

> …privilege can only be claimed document by document, with each document being required to meet the criteria for the privilege—(i) a communication between solicitor and client; (ii) which entails the seeking or giving of legal advice; and (iii) which is intended to be confidential by the parties.

[para 40] The information withheld under s. 27(1)(a) satisfies the first two criteria for solicitor-client privilege. The information is clearly requests for, and receipt of, legal advice from the lawyer for the Public Body.

[para 41] The Public Body's evidence supporting that the communications were intended to be confidential consists of the following passage from the Affidavit:

> The documents severed from disclosure in response to the FOIP Request over which the Public Body has claimed privilege have been treated as confidential and not been disclosed by the Public Body, except to the OIPC for purposes of this Inquiry and the related Request for Review commenced by the Applicant.

However, the Secretary Treasurer was not the one dealing with the Public Body's lawyer. Neither that employee nor the lawyer have provided their own affidavits.

[para 42] I consider, though, that the Secretary Treasurer, while not the one who made the communications, is in position to know to whom the Public Body disclosed the withheld information. I note that the e-mails from the Public Body's legal counsel to its employee contain a notification that those communications are confidential. I also consider that even though e-mails from the employee to legal counsel do not contain any similar notification, the e-mails were not copied to anyone else. There is no evidence to suggest that the communications were forwarded to anyone else, either. It appears that both the lawyer and the employee treated the communications as confidential at the time.

[para 43] In respect of the finding that the Public Body treated the e-mails as confidential, I am satisfied that, on balance of probabilities, they were intended to be treated as such when they were made. The third criterion for solicitor-client privilege is met in this case.

[para 44] I find that the Public Body has properly applied s. 27(1)(a) to the severed information.

C. Did the Public Body properly apply section 27(1)(c) (information in correspondence) (privileged information) to the attachment?

[para 45] Section 27(1)(c) states as follows:

> *27(1) The head of a public body may refuse to disclose to an applicant*
>
> *(c) information in correspondence between*
>
> *(i) the Minister of Justice and Solicitor General,*
>
> *(ii) an agent or lawyer of the Minister of Justice and Solicitor General, or*
>
> *(iii) an agent or lawyer of a public body,*
>
> *and any other person in relation to a matter involving the provision of advice or other services by the Minister of Justice and Solicitor General or by the agent or lawyer*

[para 46] The Public Body applied s. 27(1)(c) to the attachments in documents five through eight. Since I have already determined that the attachments in documents seven and eight were properly withheld under s. 27(1)(a), I do not consider the application of s. 27(1)(c) to them.

[para 47] In Order F2017-57, the Adjudicator commented on balancing the public interest in disclosure versus a public body's discretion to withhold information under s. 27(1)(c). She stated at para. 193,

> As I noted in Order F2013-13, sections 27(1)(b) and (c) are drafted in such a way that they apply to information regardless of whether disclosure of the information would result in harm. These provisions may be said to apply to information that is not privileged or confidential, and would not result in harm if disclosed. If a lawyer or agent (or someone acting at the direction of the lawyer or agent) has prepared information for use in the provision of advice or legal services, section 27(1)(b) applies, and if the lawyer is a party to correspondence in relation to a matter for which the lawyer is providing advice or services, then section 27(1)(c) applies. However, when applying discretion to sever information under these provisions it is not sufficient to find that they apply; the Public Body must determine that there are reasons that support severing the information relevant to the purpose of the provision, that outweigh interests in disclosing the records.

[para 48] I agree with the above passage from Order F2017-57. Even if the withheld information fits within the class of information described in s. 27(1)(c), a public body must provide a rationale for withholding information under that section that tilts the balancing of interests in favour of withholding information.

[para 49] The attachments withheld under s. 27(1)(c) fall squarely within s. 27(1)(c)(iii). The e-mails that include the attachments were sent between an employee of the Public Body and its lawyer, in relation to the provision of advice or services provided by the lawyer.

[para 50] The Public Body's rationale for exercising discretion to withhold information under s. 27(1)(c) is as follows:

> The correspondence relates to a legal matter involving the Applicant, over which the Applicant indicated intent to commence legal proceedings. Severing the records at issue protects the Public Body's position, which is a recognized purpose of s. 27(1)(c). In consideration of this, the Public Body exercised its discretion to refuse disclosure.

[para 51] There is no doubt that the Applicant was contemplating litigation when the access request was made. The Applicant stated in the Request for Review of the access request that the identity of those who issued the Trespass Notice was required for use in ongoing litigation. The Applicant also contemplated taking further legal action throughout their submissions.

[para 52] In support of its argument that s. 27(1)(c) is intended to protect its position in a legal matter, the Public Body cites Order F2017-57 at para. 194:

> As noted above, section 27(1)(b) appears intended to protect a government lawyer's or Crown prosecutor's work product in relation to a matter involving the provision of legal services from disclosure, while section 27(1)(c) protects correspondence with other persons regarding a matter that a lawyer or Crown prosecutor has carriage of from disclosure. In my view, sections 27(1)(b) and (c) both serve to protect a public body's position in a legal matter, given that these provisions may be used to protect communications and work product in relation to legal matters from disclosure.

[para 53] I note that in Order F2017-57 the Adjudicator found that some of the withheld information was captured under s. 20(1)(g) as a matter of prosecutorial discretion rather than under s. 27(1)(b) or (c).

[para 54] The Public Body does not state the position it is protecting in its submissions. However, upon review of the withheld documents, I am able to discern what it is, and to what scenario it relates. The information in the attachments reveals the Public Body's position on certain matters involving it and the Applicant.

[para 55] Some of the withheld information may also be considered evidence that underpins that position. Revealing this information could undermine the Public Body's handling of legal matters between it and the Applicant. Disclosing such information may also compromise the Public Body's ability to strategize about potential litigation with its legal counsel. There is potential for harm to the Public Body's legal interests, and I find that the Public Body reasonably exercised its discretion to withhold information under s. 27(1)(c) in light of it.

[para 56] I find that the Public Body properly applied s. 27(1)(c) to attachments in documents five and six.

D. Does section 16(1)(b) (disclosure harmful to business interests) require the Public Body to withhold the attachment?

[para 57] At inquiry, the Public Body took no position on the application of s. 16(1)(b) and did not make any arguments about whether it was required to withhold information under it. However, since s. 16(1) is a mandatory provision that requires a Public Body to withhold certain information, I have considered the application of it regardless. Section 16(1) is reproduced below.

> *16(1) The head of a public body must refuse to disclose to an applicant information*
>
> *(a) that would reveal*
>
> *(i) trade secrets of a third party, or*
>
> *(ii) commercial, financial, labour relations, scientific or technical information of a third party,*
>
> *(b) that is supplied, explicitly or implicitly, in confidence, **and***
>
> *(c) the disclosure of which could reasonably be expected to*
>
> *(i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,*
>
> *(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,*
>
> *(iii) result in undue financial loss or gain to any person or organization, or*
>
> *(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.*
>
> [emphasis mine]

[para 58] Section 16(1)(b) on its own, does not require a Public Body to withhold information. The use of the conjunctive "and" at the end of it indicates that a public body is required to withhold information only where the criteria in ss. 16(1)(a), (b), and (c) are met together.

[para 59] Section 16(1)(a) limits the application of s. 16(1) to information that reveals trade secrets or other enumerated pieces of information of a third party. Upon reviewing

the records, there does not appear to be any such third party information present. Accordingly, the information is not subject to s. 16(1).

[para 60] I find that s. 16(1) did not require the Public Body to withhold information.

E. Did the Public Body properly apply section 18 of the Act (disclosure harmful to individual or public safety) to the attachment?

[para 61] The Public Body has not taken a position on the application of s. 18, and has not made arguments in respect of how it applies to any of the information withheld under it.

[para 62] I find that the Public Body has failed to meet its burden of proof to establish that it properly applied s. 18. Since s. 18 is a discretionary exception to disclosure, I do not consider it further.

V. ORDER

[para 63] I make this Order under s. 72 of the Act.

[para 64] I order the Public Body to respond to the access request as required by s. 10(1). Without limiting the generality of the foregoing, the Public Body shall conduct a search for records responsive to the Applicant's access request, including searching for records of telephone conversations. The Public Body shall provide to the Applicant a description of the steps it takes to locate responsive records. The Public Body shall also provide to the Applicant a description of why it believes no further records exist, beyond those, if any, that it locates in the search.

[para 65] I confirm that the Public Body properly withheld information in response to the access request under ss. 27(1)(a) and (c).

[para 66] I find that the Public Body was not required to withhold information under s. 16(1).

[para 67] I find that the Public Body has not properly withheld information under s. 18.

[para 68] I note that all of the information withheld under ss. 16(1) and 18 was also properly withheld under ss. 27(1)(a) and (c). As a result, despite my findings on the application of ss. 16(1) and 18, I do not order the Public Body to reconsider its application of those sections, or to disclose information improperly withheld under them.

[para 69] I order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

_____
John Gabriele
Adjudicator