

## WORKSHOP TABLE OF CONTENTS

<b>BEFORE YOU RECEIVE AN ACCESS TO INFORMATION REQUEST.....</b>	<b>2</b>
<b>DETERMINE “WHO IS THE ‘HEAD’” .....</b>	<b>2</b>
<b>ONCE YOU HAVE RECEIVED AN ACCESS TO INFORMATION REQUEST.....</b>	<b>3</b>
<b>COLLECT THE \$20 APPLICATION FEE .....</b>	<b>4</b>
<b>CONSIDER IF YOU HAVE POSSESSION AND/OR CONTROL. ....</b>	<b>4</b>
<b>CONSIDER YOUR DUTY TO ASSIST .....</b>	<b>6</b>
<b>CALCULATING 30 DAYS BEFORE THE SECTION 7 LETTER GOES OUT .....</b>	<b>7</b>
<b>CONSIDER WHETHER YOU NEED TO TRANSFER THE ACCESS REQUEST .....</b>	<b>8</b>
<b>IF NECESSARY, WORK WITH THE APPLICANT TO CLARIFY OR NARROW THE SCOPE OF THE REQUEST .....</b>	<b>9</b>
<b>THE DIFFERENCE BETWEEN A PRESCRIBED FEE AND A FEE ESTIMATE .....</b>	<b>10</b>
<b>PAPER OR ELECTRONIC DISCLOSURE.....</b>	<b>14</b>
<b>WAIVING OF THE FEE ALTOGETHER.....</b>	<b>15</b>
<b>SEARCH FOR RECORDS AND DOCUMENT SEARCH EFFORTS.....</b>	<b>16</b>
<b>DETERMINE IF AN EXTENSION OF THE 30-DAY RESPONSE TIME IS NECESSARY.....</b>	<b>17</b>
<b>A WORD ON PREPARING THE RECORDS.....</b>	<b>18</b>
<b>CONDUCTING A LINE-BY-LINE ANALYSIS IN ORDER TO SEVER .....</b>	<b>19</b>
<b>THE SECTION 7 DECISION LETTER.....</b>	<b>20</b>
<b>APPLICATIONS TO DISREGARD/DISCONTINUE.....</b>	<b>21</b>
<b>REFUSAL TO CONFIRM OR DENY THE EXISTENCE OF A RECORD:.....</b>	<b>25</b>
<b>FINAL COMMENT ON SECTION 7 NOTICE: .....</b>	<b>27</b>
<b>CONSIDER HOW YOU WILL PROVIDE ACCESS.....</b>	<b>27</b>
<b>EXEMPTIONS UNDER WHICH INFORMATION MUST OR MAY BE WITHHELD... 28</b>	
<b>SECTION 13 EXEMPTION - GOVERNMENT DOCUMENT EXEMPTION.....</b>	<b>28</b>
<b>SECTION 14 EXEMPTION - LAW ENFORCEMENT AND INVESTIGATIONS.....</b>	<b>30</b>
<b>SECTION 15 EXEMPTION - DOCUMENTS OF A LOCAL AUTHORITY .....</b>	<b>31</b>
<b>SECTION 16 EXEMPTION - ADVICE FROM OFFICIALS.....</b>	<b>32</b>
<b>SECTION 21 EXEMPTION – SOLICITOR/CLIENT PRIVILEGE .....</b>	<b>33</b>

**PREFACE**

PLEASE NOTE THAT ALL THE PAGE NUMBERS QUOTED IN THIS TALK ARE THE PAGE NUMBERS OF THE ELECTRONIC VERSION OF THE GUIDE. THE GUIDES HAVE THE ANSWERS YOU NEED AND SO WE WANT TO ENCOURAGE YOU TO FEEL COMFORTABLE GOING TO THEM IF YOU HAVE A QUESTION.

**BEFORE YOU RECEIVE AN ACCESS TO INFORMATION REQUEST**

**DETERMINE “WHO IS THE ‘HEAD’”**

*(Guide to LA FOIP [CHAPTER 2: Administration of LA FOIP](#) p. 8)*

THE HEAD RECEIVES AND RESPONDS TO THE REQUEST - FIRST OFF THE STATUTE NAMES THE HEAD AS THE DECISION MAKER WITH RESPECT TO ACCESS TO INFORMATION REQUESTS. SUBSECTION 2(1)(e) OF THE ACT DEFINES THE HEAD IN THE CASE OF A MUNICIPALITY AS THE MAYOR, THE REEVE, OR THE CHAIRPERSON OF THE LOCAL ADVISORY COMMITTEE.

*(Guide to LA FOIP [CHAPTER 2: Administration of LA FOIP](#) p. 12)*

SECTION 50 OF THE ACT ALLOWS THE HEAD TO DELEGATE POWERS IN WRITING TO ONE OR MORE OFFICERS OR EMPLOYEES OF THE LOCAL AUTHORITY. THAT DELEGATION CAN BE IN FULL OR WITH LIMITATIONS/RESTRICTIONS.

For more information about delegation, please consider our resource: [Delegation of Duty or Power Under LA FOIP | IPC](#).

WE ALWAYS RECOMMEND THAT EACH RURAL MUNICIPALITY HAVE AN ACCESS TO INFORMATION AND PRIVACY PROFESSIONAL WHO CAN LOOK AFTER ACCESS REQUESTS AND RESPOND TO PRIVACY CONCERNS AND WHO CAN MAKE A CONNECTION WITH OUR STAFF. WE TRY TO HELP AS MUCH AS WE CAN AND OUR STAFF IS VERY OPEN TO ASSISTING YOU TO THE BEST OF OUR ABILITY. WE CAN NEVER GIVE YOU LEGAL ADVICE BUT WE ARE HERE TO HIGHLIGHT RELEVANT PRECEDENTS OR RESOURCES TO HELP YOU MAKE DECISIONS. WE CALL THIS SUMMARY ADVICE. WE CAN ANSWER YOUR QUESTIONS VIA EMAIL OR ON THE PHONE. WE TRY TO RESPOND AS FAST AS WE CAN AND THE VOLUME FOR HELP IS HIGH. WE HAVE A TIMELINE OF RESPONDING TO YOU WITHIN THREE DAYS SO PLAN AHEAD AND WE ARE HAPPY TO ENGAGE. EVEN IF YOU CANNOT AFFORD THE TIME OR FUNDS FOR A FULL TIME PRIVACY OFFICER, WE RECOMMEND THAT THERE BE SOME CONSISTENCY IN THE PERSON YOU CHOSE TO DO THIS DUTY SO THAT A WORKING RELATIONSHIP CAN BE ESTABLISHED WITH OUR OFFICE.

### **ONCE YOU HAVE RECEIVED AN ACCESS TO INFORMATION REQUEST**

PROCEDURALLY WHAT ARE YOUR OBLIGATIONS AND WHAT STEPS MUST YOU FOLLOW? MOST OF THIS PART OF THE PRESENTATION WILL INVOLVE [CHAPTER 3](#) OF THE GUIDE. THE HOW TO ASPECT OF ACCESS TO INFORMATION REQUESTS ARE IN CHAPTER 3 OF THE GUIDE. THE EXEMPTIONS ARE ALL EXPLAINED IN PART 4.

(ON OUR [Office of the Saskatchewan Information and Privacy Commissioner | IPC WEBSITE](#)  
– CLICK ON [Quick Links to All OIPC Resources | IPC](#) AND SCROLL DOWN TO [Access  
to Information Request Forms | IPC](#))

THIS IS THE ACTUAL FORM FROM THE KING'S PRINTER THAT APPLICANTS CAN  
USE. YOU WILL REVIEW THE FORM THAT YOU RECEIVED FROM THE APPLICANT  
AND OPEN A FILE.

**FORM:** DID THE APPLICANT MAKE THE REQUEST ON THE PROPER FORM? THE  
REQUEST DOES NOT HAVE TO BE IN THE OFFICIAL FORM BUT IF IT IS IN A LETTER  
OR AN EMAIL – IT MUST INCLUDE ALL THE ELEMENTS THAT ARE LISTED ON FORM  
A.

### **COLLECT THE \$20 APPLICATION FEE**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records" p. 42](#))*

THE LA FOIP REGS [SECTION 5(1)] SETS OUT THAT AN APPLICATION FEE OF \$20 IS  
PAYABLE AT THE TIME AN APPLICATION FOR ACCESS TO RECORDS IS MADE.

### **CONSIDER IF YOU HAVE POSSESSION AND/OR CONTROL.**

#### **WHAT IS POSSESSION AND/OR CONTROL?**

*(Guide to LA FOIP ["CHAPTER 1: Purposes and Scope of LA FOIP" p11](#))*

SECTION 5 OF LA FOIP SAYS THAT IF AN APPLICATION HAS BEEN MADE IN  
ACCORDANCE WITH THE ACT, THE APPLICANT SHALL BE PERMITTED ACCESS TO

RECORDS THAT ARE IN THE POSSESSION OR CONTROL OF THE LOCAL AUTHORITY. WHEN A STATUTE SAYS “OR” THAT MEANS THAT YOU MUST CONSIDER WHETHER EITHER OPTION APPLIES TO YOU. BY THIS WE MEAN, IF YOU DO NOT HAVE PHYSICAL POSSESSION OF THE RECORD – DO YOU HAVE CONTROL OVER IT?

**POSSESSION AND/OR CONTROL:** ARE THE MATERIALS IN THE POSSESSION OR CONTROL OF YOUR LOCAL AUTHORITY? YOU DETERMINE POSSESSION BY WHETHER YOU HAVE PHYSICAL POSSESSION OF THE RECORD. THE MERE POSSESSION OF A RECORD IS NOT ENOUGH, THERE MUST BE SOME RIGHT TO DEAL WITH THE RECORDS AND SOME RESPONSIBILITY FOR THEIR CARE AND PROTECTION. FOR THIS REASON, THE DEFINITION FOR “POSSESSION” INCLUDES A “MEASURE OF CONTROL”.

*(Guide to LA FOIP [“CHAPTER 1: Purposes and Scope of LA FOIP”](#) p. 12)*

CONTROL CONNOTES AUTHORITY. A RECORD IS UNDER THE CONTROL OF A LOCAL AUTHORITY WHEN IT HAS THE AUTHORITY TO MANAGE THE RECORD INCLUDING RESTRICTING, REGULATING AND ADMINISTERING ITS USE, DISCLOSURE OR DISPOSITION. IS IT ON YOUR PREMISES EITHER PHYSICALLY OR ELECTRONICALLY (THAT IS POSSESSION) AND IF NOT – DETERMINE IF THE DATA HAS BEEN FARMED OUT TO AN INFORMATION MANAGEMENT SERVICE PROVIDER COMPANY THAT MANAGES YOUR DATA FOR YOU - DO YOU HAVE THE FINAL SAY IN MANAGING IT? IF YOU DO THEN YOU STILL HAVE CONTROL. WE ISSUED THE POWERSCHOOL DATA BREACH REPORT THAT FULLY EXPLAINED THESE CONCEPTS – [INVESTIGATION REPORT 035-2025](#). IN PARAGRAPH [24] OF THAT DECISION WE

EXPLAINED THAT EVEN THOUGH YOUR DATA MAY BE ON ANOTHER COMPANY'S SERVER, IF YOU RETAIN PARAMOUNTCY (FINAL SAY) OVER THE DATA YOU HAVE CONTROL OVER IT. AND WHAT THAT MEANS IS IF YOU DECIDE TO TERMINATE THE RELATIONSHIP AND MOVE YOUR DATA SOMEWHERE ELSE – THE RESPONSIBILITY IS STILL WITH YOU TO ENSURE THAT THE INFORMATION MANAGEMENT SERVICE PROVIDER WIPES YOUR DATA CLEAR OFF THEIR SYSTEM. IN THE POWERSCHOOL CASE – THE SCHOOL WAS CONCERNED ABOUT THE DATA AND THEY REACHED OUT TWICE TO THE US COMPANY POWER SCHOOL TO ENSURE THAT THE DATA WAS WIPED CLEAN OFF THE POWER SCHOOL SYSTEM BUT THEY NEVER GOT A CLEAR RESPONSE BACK FROM POWERSCHOOL SUCH THAT WHEN THERE WAS A DATA BREACH BY CYBER CRIMINALS – THE DATA OF THOUSANDS OF STUDENTS WENT INTO THE REALM OF THE HACKERS.

### **CONSIDER YOUR DUTY TO ASSIST**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) p. 37)*

**SECTION 5.1** OF LA FOIP IMPOSES A DUTY ON THE LOCAL AUTHORITY TO ASSIST THE APPLICANT IN A MANNER THAT IS OPEN, ACCURATE AND COMPLETE.

“OPEN” MEANS TO BE HONEST, FORTHCOMING AND TRANSPARENT. “ACCURATE” MEANS TO BE CAREFUL, PRECISE AND LACKING ERRORS. “COMPLETE” MEANS TO ADDRESS THE ENTIRE DOCUMENT.

WHAT THIS MEANS IS THAT YOU MUST ASSIST AN APPLICANT IF THEY NEED TO KNOW THE DEFINITION OF A TERM, CODE OR ABBREVIATION USED IN ONE OF YOUR DOCUMENTS. AND IF YOU DO NOT KNOW - THEN YOU HAVE TO MAKE AN EFFORT TO REFER THE APPLICANT TO SOMEONE OR A WEBSITE THAT CAN ANSWER THEIR QUESTION. THIS IS AN OBLIGATION IMPOSED BY STATUTE AND THE SUPREME COURT OF CANADA HAD RULED THAT A CITIZEN'S RIGHT TO ACCESS INFORMATION IS A QUASI CONSTITUTIONAL RIGHT THAT WILL BE UPHELD IN COURT - CANADA (INFORMATION COMMISSIONER) V. CANADA (MINISTER OF NATIONAL DEFENCE), 2011 SCC 25, [2011] 2 SCR 306. WE VERY RARELY SEE COMPLAINTS FOR A VIOLATION OF THIS SECTION OF THE ACT BUT I STILL MUST POINT IT OUT TO YOU BECAUSE IT ADDRESSES THE ATTITUDE WE MUST HAVE WITH RESPECT TO APPLICANTS. AND IF YOU FIND THAT YOU ARE UNCLEAR AND CANNOT ANSWER THE APPLICANT'S QUESTION – PLEASE FEEL FREE TO CALL OUR OFFICE SO WE CAN HELP YOU WITH THIS.

### **CALCULATING 30 DAYS BEFORE THE SECTION 7 LETTER GOES OUT**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)– p. 48)*

SECTION 6(2) OF LA FOIP TELLS US THAT IF THE APPLICATION DOES NOT NEED ANY CLARIFICATION AND AS LONG AS THE APPLICATION DOES NOT HAVE TO BE TRANSFERRED TO ANOTHER PARTY – THE APPLICATION IS CONSIDERED TO BE “MADE” WHEN YOU HAVE IDENTIFIED THE RECORD. AT THIS POINT THE 30 DAY

TIMELINE TO PROVIDE THE SECTION 7 NOTICE LETTER COMMENCES ON THE DATE IT IS FILED WITH YOU.

TIME IS CALCULATED SUCH THAT YOU DO NOT COUNT THE FIRST DAY THAT THE ACCESS TO INFORMATION APPLICATION COMES TO YOU. THE 30 DAY CLOCK BEGINS THE DAY FOLLOWING THE DAY YOU RECEIVE THE APPLICATION.

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 56) LAYS OUT THE BASIC RULES FOR THE CALCULATION OF TIME. IF YOU HAVE ANY CONFUSION AT ALL PLEASE CALL OUR OFFICE AND WE WOULD BE PLEASED TO ASSIST YOU WITH THE GUIDELINES FOR THE INTERPRETATION OF TIME.*

### **CONSIDER WHETHER YOU NEED TO TRANSFER THE ACCESS REQUEST**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)– p. 101-102)*

**SECTION 11** –THE TEST HERE IS THAT YOU HAVE TO COME TO THE CONCLUSION AND BE ABLE TO ARGUE THAT ANOTHER ORGANIZATION HAS “A GREATER INTEREST IN THE RECORD”. NOW WHAT THIS MEANS IS IF THE RECORD WAS ORIGINALLY PREPARED FOR THAT ORGANIZATION AND NOT FOR YOU **OR** THE OTHER ORGANIZATION WAS THE FIRST ORGANIZATION TO OBTAIN THE RECORD OR A COPY OF THE RECORD, THEN THAT ORGANIZATION IS UNDERSTOOD TO HAVE “A GREATER INTEREST IN THE RECORD.” SO IF YOU COME TO THE CONCLUSION THAT YOU ARE NOT GOING TO DEAL WITH THIS ACCESS REQUEST BECAUSE ANOTHER ORGANIZATION HAS A GREATER INTEREST IN THE RECORD – YOU HAVE

TO RESPOND BACK TO THE APPLICANT WITHIN 15 DAYS AFTER THE APPLICATION IS MADE TO YOU AND YOU HAVE TO GIVE WRITTEN NOTICE OF WHERE YOU TRANSFERRED THE APPLICATION TO, AND THE DATE OF THE TRANSFER. THE APPLICANT WILL HAVE TO FOLLOW UP WITH THAT ORGANIZATION.

**IF NECESSARY, WORK WITH THE APPLICANT TO CLARIFY OR NARROW THE SCOPE OF THE REQUEST**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 43)*

IF YOU HAVE AN APPLICANT THAT IS DIFFICULT – PLEASE TRY TO WORK WITH THEM AND KEEP NOTES OF THE ENGAGEMENT. IF THEY REFUSE TO NARROW THE SCOPE OF THE REQUEST – THIS IS SOMETHING WE WILL NEED TO KNOW – SUCH AS THE DATES AND TIMES YOU TRIED TO SPEAK WITH THEM. THIS BECOMES IMPORTANT IF YOU HAVE TO ASK FOR A DISCONTINUANCE.

SECTION 6(1)(B) OF LA FOIP OUTLINES THAT THE APPLICANT HAS TO SPECIFY WHAT THEY WANT WITH SUFFICIENT PARTICULARITY WITH RESPECT TO TIME, PLACE AND EVENT TO ALLOW YOU TO FIND THE RECORD.

*((Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) p. 52)*

IF YOU CANNOT FIND THE RECORD, SECTION 6(3) OF LA FOIP REQUIRES YOU TO CONTACT THE APPLICANT AND ASK FOR FURTHER DETAILS. IF YOU HAVE TO DO THIS – THE 30 DAY TIMELINE COMES TO A STANDSTILL UNTIL YOU ARE GIVEN

SUFFICIENT DETAILS TO EITHER FIND THE RECORD OR DETERMINE THAT THE RECORD DOES NOT EXIST.

## **THE DIFFERENCE BETWEEN A PRESCRIBED FEE AND A FEE ESTIMATE**

*((Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)- p.58)*

YOU CAN NOTIFY THE APPLICANT THAT THE DOCUMENT IS AVAILABLE BUT THEY HAVE TO PAY THE *PRESCRIBED FEE* AND THEN SET OUT HOW DISCLOSURE WILL BE MADE UPON PAYMENT OF THE FEE. WE WILL TALK MORE ABOUT FEES WHEN WE GET TO SECTION 9 OF LA FOIP. SAFE TO SAY AT THIS POINT – A FEE ESTIMATE IS NOT THE SAME THING AS A PRESCRIBED FEE. THE PRESCRIBED FEE IS SET BY [SECTION 6(1)] THE LA FOIP REGULATIONS. THOSE REGULATIONS OUTLINE THE PRESCRIBED AMOUNT THAT CAN BE CHARGED AT AN UPPER LIMIT OF \$100. FOR ANY FEE OVER \$100 YOU HAVE TO ISSUE A FEE ESTIMATE TO THE APPLICANT FIRST. IF THE APPLICANT AGREES TO THE FEE YOU ESTIMATE – THEN THAT IS THE PRESCRIBED FEE. BUT IF THE APPLICANT DOES NOT AGREE THEN THE APPLICANT CAN EITHER WALK AWAY FROM THE ACCESS REQUEST OR THEY CAN APPLY TO OUR OFFICE FOR A REVIEW OF YOUR FEE ESTIMATE. IF YOU WANT HELP IN THE CALCULATION OF A FEE ESTIMATE PLEASE REFER TO [REVIEW REPORT 056-2025](#). FEE ESTIMATES CAN BE TRICKY AND THIS REPORT WILL HELP YOU UNDERSTAND HOW A FEE ESTIMATE IS NOT A PRESCRIBED FEE.

*((Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 78)*

SECTION 9 ALSO TALKS ABOUT A PRESCRIBED FEE. IF YOU CALCULATE THAT YOUR COSTS TO MEET THE ACCESS REQUEST WILL BE MORE THAN \$100 – THEN WHAT YOU GIVE THE APPLICANT IS A FEE ESTIMATE – NOT A PRESCRIBED FEE.

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) BOTTOM OF 80)*

YOUR FEE ESTIMATE WILL BE BASED ON THREE THINGS THAT YOU LIST IN YOUR SUBMISSIONS TO US:

(1) LIST THE FEES FOR SEARCHING FOR THE DOCUMENTS;

(2) LIST THE FEES FOR THE PREPARATION OF THE DOCUMENTS (THIS INCLUDES YOUR FEE FOR REVIEW AND APPLCIATION OF REDACTIONS AND IF YOU HAVE TO CONSULT AN EXPERT. FOR EXAMPLE, IF YOU HAVE TO CONSULT AN IT EXPERT TO HELP YOU FORMULATE A KEYWORD SEARCH – YOU MAY RECLAIM THOSE FEES);  
AND

(3) LIST FEES FOR THE REPRODUCTION OF THE DOCUMENTS.

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)– p. 79)*

AT THE END OF THE DAY IF YOU ISSUE A FEE ESTIMATE AND THE APPLICANT DISPUTES IT – THE FEE ESTIMATE WILL BE REVIEWED ON THE BASIS OF WHETHER OR NOT IT WAS REASONABLE. THIS EXERPT FROM THE GUIDE WILL GIVE YOU MORE GUIDANCE ON WHAT IS REASONABLE

“A REASONABLE FEE ESTIMATE IS ONE THAT IS PROPORTIONATE TO THE WORK REQUIRED ON THE PART OF THE LOCAL AUTHORITY TO RESPOND EFFICIENTLY AND EFFECTIVELY TO AN APPLICANT’S REQUEST. A FEE ESTIMATE IS EQUITABLE WHEN IT IS FAIR AND EVEN-HANDED, THAT IS, WHEN IT SUPPORTS THE PRINCIPLE THAT APPLICANTS SHOULD BEAR A REASONABLE PORTION OF THE COST OF PRODUCING THE INFORMATION THEY ARE SEEKING, BUT NOT COSTS ARISING FROM ADMINISTRATIVE INEFFICIENCIES OR POOR RECORDS MANAGEMENT PRACTICES.” – BOTTOM LINE THE PROPORTIONALITY OF THE FEE ESTIMATE TO THE WORK REQUIRED IS WHAT WILL BE EXAMINED.

IF YOU ISSUE A FEE ESTIMATE AND YOU DO NOT HEAR FROM THE APPLICANT WITHIN 30 DAYS – YOU CANNOT JUST ASSUME THAT THE ACCESS REQUEST HAS BEEN ABANDONED. EARLIER THIS YEAR WE RELEASED A DECISION THAT ADDRESSES THIS VERY ISSUE, ALBEIT FROM THE POINT OF VIEW OF THE MIRROR PROVISIONS OF FOIP BUT THE RULING APPLIES ALL THE SAME TO LA FOIP. IT IS [REVIEW REPORT 343-2025 \(PART 1\)](#).

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 85)*

SECTION 9(3) OUTLINES THAT ONCE YOU NOTIFY THE APPLICANT OF THE FEE ESTIMATE, THE 30 DAY TIME PERIOD TO DELIVER THE SECTION 7 NOTICE IS SUSPENDED AND REMAINS SUSPENDED UNTIL THE APPLICANT GETS BACK TO

YOU AND INDICATES THEIR WISH TO PROCEED AND UPON PAYMENT OF 50% OF THE FEE. SECTION 9(3) OF LA FOIP NOTES THAT WHERE A FEE ESTIMATE IS GIVEN, THE TIME WHEN THE HEAD MUST ISSUE A SECTION 7 NOTICE LETTER IS SUSPENDED UNTIL THE APPLICANT NOTIFIES THE HEAD THAT THEY WISH TO PROCEED. IN [REVIEW REPORT 343-2025 \(PART 1\)](#), THE APPLICANT OBJECTED TO THE FEE ESTIMATE AND APPROACHED OUR OFFICE FOR A REVIEW OF THE FEE ESTIMATE ONLY. THE GOVERNMENT INSTITUTION CONFUSED THE *FEE ESTIMATE* WITH THE CONCEPT OF A *PRESCRIBED FEE*.

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 70)*

ON THAT BASIS THE HEAD INFORMED THE APPLICANT THAT THEY WERE RELYING ON SECTION 7.1 OF FOIP (ALSO SECTION 7.1 OF LA FOIP) AND THEY ASKED FOR FURTHER DETAILS. THEY TOLD THE APPLICANT THAT IF THEY DID NOT HEAR BACK WITHIN 30 DAYS – THEY WOULD TREAT THE ACCESS REQUEST AS ABANDONED. DURING THAT 30 DAY PERIOD THE APPLICANT APPROACHED OUR OFFICE AND OUR OFFICE COMMENCED A REVIEW OF THE FEE ESTIMATE. HAVING NOT HEARD FROM THE APPLICANT AND NOT REALIZING THAT THE 30 DAY TIME PERIOD WAS SUSPENDED, THE HEAD ISSUED A NOTICE OF ABANDONMENT. WE OVERTURNED THAT AS A NULLITY BECAUSE A NOTICE OF ABANDONMENT PURSUANT TO SECTION 7.1 OF LA FOIP CAN ONLY BE ISSUED FOR A “PRESCRIBED FEE”. A FEE ESTIMATE IS ONLY A PRESCRIBED FEE IF THE APPLICANT AGREES TO PAY IT. IF THE APPLICANT DISPUTES THE FEE ESTIMATE – THEN THE ENTIRE PROCESS IS SUSPENDED UNTIL THE INFORMATION AND PRIVACY COMMISSION

HAS REVIEWED THE FEE ESTIMATE. IN THIS CASE SINCE OUR OFFICE HAD NOT EVEN HAD A CHANCE TO REVIEW THE FEE ESTIMATE – THE PRESCRIBED FEE HAD NOT BEEN DETERMINED. THE HEAD “JUMPED THE GUN”. SECTION 38(2) OF LA FOIP GIVES AN APPLICANT UP TO ONE YEAR TO BRING AN APPEAL TO OUR OFFICE FOR ANY DECISION OF A HEAD. I ACKNOWLEDGE THAT IS A VERY LONG TIME FOR YOUR TO BE IN THE WINGS WAITING, BUT THIS IS THE LEGISLATION AS IT NOW STANDS.

**PAPER OR ELECTRONIC DISCLOSURE:**

YOU CAN PRESCRIBE YOUR FEE FOR PRODUCING THE DOCUMENT IN PAPER FORMAT IF THAT IS WHAT THE APPLICANT REQUIRES BUT WE HAVE FOUND THAT, IF IT IS CHEAPER TO JUST PUT IT ON A USB THUMB DRIVE AND HAND IT OVER ELECTRONICALLY, THAT IS RECOMMENDED. THE ONLY FEE THAT THE APPLICANT WILL HAVE TO BEAR IS THE COST OF THE THUMB DRIVE. ONCE AGAIN YOU NEED THE CONSENT OF THE APPLICANT FOR THIS OF COURSE. THERE ARE STILL MEMBERS OF THE PUBLIC WHO WANT PAPER COPIES – AND YOU ARE WITHIN YOUR RIGHT TO CHARGE THEM THE FEE FOR PHOTOCOPYING THAT AND THE TIME YOU SPEND REDACTING.

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) - p. 86)*

SECTION 9(4) OF LAW FOIP ALLOWS YOU TO CHARGE THE APPLICANT A DEPOSIT OF 50% UP FRONT WHERE THE FEE ESTIMATE IS CONSIDERABLE.

## WAIVING OF THE FEE ALTOGETHER

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – bottom of p. 86)*

SECTION 9(5) OF LA FOIP IS A CATCH ALL SECTION THAT ALLOWS YOU TO WAIVE THE PRESCRIBED FEE. WE'VE HAD APPLICANTS WHO ARE REALLY ECONOMICALLY DISADVANTAGED COME TO US AND THEY HAVE ASKED US TO REVIEW THE DECISIONS OF HEADS TO NOT TO WAIVE A FEE. IN [REVIEW REPORT 231-2025](#) THE CONDITIONS FOR THE WAIVER OF AN APPLICATION FEE ARE DISCUSSED IN PARAGRAPHS [17] TO [20].

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)– p. 87)*

SECTION 8 OF THE LA FOIP REGULATIONS IS DISCUSSED AT GREAT LENGTH FROM ELECTRONIC PAGES 87 TO 95 IN *Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)*. WE WILL BRIEFLY SUMMARIZE HERE: YOU MAY WISH TO CONSIDER WAIVING THE FEE:

- *(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)–p. 87)* IF THE INFORMATION REQUESTED IS THE PERSONAL INFORMATION OF THE APPLICANT;
- *(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)– p. 88)* IF THE PAYMENT OF THE FEES WILL CAUSE FINANCIAL HARDSHIP TO THE APPLICANT. FINANCIAL HARDSHIP INCLUDES IF THE APPLICANT IS RECEIVING ASSISTANCE PURSUANT TO THE *SASK ASSISTANCE ACT*; THE TRAINING ALLOWANCE REGULATIONS OR IF THE PERSON IS BEING REPRESENTED BY

SASKATCHEWAN LEGAL AID, SASKATCHEWAN *PRO BONO* OR COMMUNITY LEGAL ASSISTANCE.

- (*Guide to LA FOIP* [CHAPTER 3 on "Access to Records"](#)– p. 91) FINALLY IF THE COST OF PRODUCING THE RECORDS IS LESS THAN THE BASELINE PRESCRIBED FEE OF \$100 YOU MAY CONSIDER WAIVING THE FEE.

### **SEARCH FOR RECORDS AND DOCUMENT SEARCH EFFORTS.**

**SEARCHING FOR RECORDS:** IF YOU CANNOT IDENTIFY THE RECORD YOU HAVE TO KEEP TRACK OF YOUR EFFORTS TO FIND IT, WHICH INCLUDES THE DESCRIPTION AS GIVEN BY THE APPLICANT, AND THEN YOU FORMALLY RESPOND THAT YOUR SEARCH HAS PROVIDED NO SUCH RECORD AND INCLUDE A DESCRIPTION OF THE EFFORTS YOU MADE TO FIND THE NON-EXISTENT RECORD. IF OUR OFFICE IS ASKED TO REVIEW YOUR SEARCH EFFORTS – THE THRESHOLD IS ONE OF REASONABLENESS AND YOUR SEARCH EFFORTS WILL BE JUDGED ON THAT STANDARD. SEE [REVIEW REPORT 128-2025](#) AT PARAGRAPH 19 WHERE WE LIST THE THINGS YOU MAY WISH TO ADDRESS AS YOU EXPLAIN THAT YOUR SEARCH WAS REASONABLE.

IN [REVIEW REPORT 044-2025](#) OUR OFFICE DISCONTINUED THE REVIEW OF THE RURAL MUNICIPALITIES' SEARCH EFFORTS BECAUSE IT WAS FOUND THAT IT APPEARED THAT THE APPLICANT HAD THE ORIGINAL DOCUMENTS WHICH SUPPORTED THE RM'S CONCLUSION THAT THE DOCUMENTS DID NOT EXIST.

WE ALSO WISH TO BRING TO YOUR ATTENTION THE IMPORTANCE OF CAREFULLY ASCERTAINING THE RECORD. IN [REVIEW REPORT 108-2025](#) WE NOTED THAT THE RECORD WAS DIFFICULT TO ASCERTAIN IN TERMS OF DETERMINING THE TOTAL NUMBER OF PAGES OF THE RECORD. THAT IS BECAUSE IN SOME OF THE EMAIL THREADS – THERE WERE EMBEDDED DOCUMENTS – SOMETIMES KNOWN AS EMAIL ATTACHMENTS. THOSE DOCUMENTS EMBEDDED IN AN EMAIL THREAD CONSTITUTE THE RECORD AND NEED TO BE ISOLATED AND COUNTED AS SEPARATE PAGES. WE FOUND THAT IN PARTS OF THAT RECORD – THE EMBEDDED DOCUMENTS HAD BEEN RELEASED TO THE APPLICANT AND IN OTHER PARTS WITHHELD BECAUSE THEY WERE ATTACHMENTS TO EMAILS THAT WERE VALIDLY WITHHELD PURSUANT TO AN EXEMPTION APPLIED TO THE BODY OF THE EMAIL. THAT IS WHY IT IS SO IMPORTANT TO MAKE SURE YOU HAVE THE ENTIRE RECORD ALL TOGETHER SO YOUR REDACTIONS AND APPLICATION OF EXEMPTIONS WILL BE CONSISTENT THROUGHOUT. [REVIEW REPORT 108-2025](#) MAY ALSO BE HELPFUL BECAUSE OUR OFFICE HAD TO REVIEW THE SEARCH EFFORTS AND THE FEE ESTIMATE AS QUOTED BY THE LOCAL AUTHORITY.

**DETERMINE IF AN EXTENSION OF THE 30-DAY RESPONSE TIME IS NECESSARY.**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#)- p.106)*

IF YOU DECIDE YOU NEED MORE THAN 30 DAYS TO PREPARE AND DISSEMINATE A RECORD – LET THE APPLICANT KNOW RIGHT AWAY. **SECTION 12** OF LA FOIP ALLOWS YOU MORE TIME IF YOU HAVE TO COMB THROUGH A “LARGE NUMBER

OF RECORDS” OR THERE IS “A LARGE NUMBER OF REQUESTS” HITTING YOUR OFFICE. OBVIOUSLY, THESE TWO CIRCUMSTANCES WILL GREATLY INTERFERE WITH THE OPERATION OF THE LOCAL AUTHORITY. YOU CAN ALSO ASK FOR MORE TIME IF THE ACCESS REQUEST DEALS WITH THIRD PARTIES. FINALLY, THE REQUEST FOR AN EXTENSION CAN ONLY BE FOR A FURTHER 30 DAYS AND THE SECTION 7 NOTICE LETTER MUST BE PROVIDED TO THE APPLICANT WITHIN THIS TIME FRAME.

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p.118)*

WHEN YOU NEED A FURTHER 30 DAYS YOU HAVE TO WRITE THE APPLICANT INFORMING THEM OF THE FACT AND YOU HAVE TO DO THIS *WITHIN THE FIRST 30 DAY PERIOD*. IF YOU FAIL TO GIVE A NOTICE OF EXTENSION WITHIN THE FIRST 30 DAY PERIOD – YOU CANNOT ASK FOR AN EXTENSION AND YOU WILL BE DEEMED TO HAVE REFUSED ACCESS TO THE DOCUMENT.

## **A WORD ON PREPARING THE RECORDS**

ADOBE ACROBAT PRO ALLOWS YOU TO APPLY REDACTIONS AND INCLUDE THE SECTION OF THE ACT THAT YOU ARE LISTING AS AN EXEMPTION WITHIN THE REDACTION BOX. USING ADOBE THIS WAY ALLOWS THE INFORMATION TO REMAIN HIDDEN FROM THE APPLICANT AND THEY HAVE YOUR LEGISLATED EXEMPTION ON THE FACE OF THE DOCUMENT. THIS ALSO ALLOWS YOU TO APPLY SECTION 8 SEVERABILITY TO YOUR DISCLOSURE WHICH WE WILL DISCUSS NEXT.

## CONDUCTING A LINE-BY-LINE ANALYSIS IN ORDER TO SEVER

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p.73)*

**SECTION 8 SEVERABILITY** IS THE SECTION THAT IMPOSES AN OBLIGATION TO GIVE ACCESS TO AS MUCH OF A DOCUMENT THAT CAN REASONABLY BE SEVERED WITHOUT DISLCOSING THE INFORMATION THAT IS LEGITIMATELY WITHHELD. WHAT THAT MEANS IS, TECHNICALLY SPEAKING, THE REVIEW AND THE REDACTIONS SHOULD BE CONDUCTED ON A LINE-BY-LINE BASIS AND ANY INFORMATION THAT IS NOT EXEMPT SHOULD REMAIN UNREDACTED. THIS APPROACH IS TESTAMENT TO THE FACT THAT A SERIOUS REVIEW WAS CONDUCTED AND IT BUILDS TRUST IN THE PROCESS. THE TEST HERE IS WHAT IS REASONABLE. *(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 74)* THE SUPREME COURT OF CANADA HAS NOTED THAT MATERIAL THAT MAKES NO SENSE OR THAT IS NOT MEANINGFUL IN ANY WAY – DOES NOT NEED TO BE DISCLOSED. ALSO IT IS NOT REASONABLE TO EXPEND A LOT OF TIME AND EFFORT TO REDACT MATERIAL THAT INVOLVES A FUTILE GREETING IN AN EMAIL HEADING. THIS SHOULD BE DETERMINED ON A CASE BY CASE BASIS.

IF THE ENTIRE DOCUMENT IS COVERED BY AN EXEMPTION THEN YOU CONVEY TO THE APPLICANT IN YOUR SECTION 7 NOTICE LETTER THAT YOU REFUSE TO PROVIDE THE DOCUMENT AS A WHOLE AND LIST THE EXEMPTION REASON FOR REFUSAL.

For additional guidance with respect to severance, please consider our resource: [Modern Age Severing Webinar | IPC](#)

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 76)*

AT THE BOTTOM OF THIS PAGE IN THE GUIDE WE SET OUT HOW YOU CAN PROVIDE THE INFORMATION TO US SO WE CAN CONDUCT AN INFORMED REVIEW OF YOUR DECISIONS. BOTTOM LINE WE NEED TO BE ABLE TO SEE THE INFORMATION AS REDACTED AND WE ALSO NEED YOU TO CITE THE SECTION OF THE ACT THAT YOU ARE USING TO REFUSE DISCLOSURE. A SEPARATE BRIEF OUTLINING FURTHER DETAILS IS ALWAYS APPRECIATED AND OFTEN GOES A LONG WAY TO ASSISTING IN OUR UNDERSTANDING OF YOUR LOGIC.

#### **THE SECTION 7 DECISION LETTER**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 58)*

YOU HAVE A STATUTORY DUTY TO RESPOND TO THE APPLICANT WITHIN 30 DAYS OF THE MAKING OF THE ACCESS REQUEST. SECTION 7(1) INDICATES YOU MUST RESPOND IN WRITING ADVISING THE APPLICANT OF YOUR DECISION AND SECTION 7(2) SETS OUT THE ISSUES THAT YOU MAY ADDRESS IN YOUR RESPONSE – WE WILL ONLY COVER FOUR OF THEM HERE BUT THIS SECTION IS VERY IMPORTANT AND FORMS THE CORNERSTONE OF THE ACCESS TO INFORMATION PROCESS:

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 61)*

**CONTENT OF THE SECTION 7 NOTICE LETTER:** THE SECTION 7 NOTICE LETTER MUST CLEARLY IDENTIFY THREE PIECES OF INFORMATION.

(1) FIRST IT MUST STATE THAT ACCESS IS REFUSED IN FULL/IN PART OR GIVEN IN FULL.

(2) IF THERE IS A REFUSAL OR REDACTIONS APPLIED THEN YOU MUST SET OUT THE REASON FOR THE REFUSAL OR FOR THE REDACTIONS. AND YOU MUST LIST THE EXEMPTION PROVISION FROM LA FOIP TO SUPPORT YOUR REFUSAL/REDACTION.

(3) YOU MUST STATE THAT YOU REFUSE ACCESS TO DOCUMENTS ON THE GROUNDS THEY DO NOT EXIST. IF THIS IS THE CASE, YOU MAY LATER HAVE TO EXPLAIN YOUR SEARCH FOR THE RECORDS AND YOUR EFFORTS WILL BE JUDGED ON THE THRESHOLD OF WHETHER OR NOT THE SEARCH WAS REASONABLE. THE OTHER VIABLE OPTION IS THAT THE DOCUMENT MAY EXIST BUT IT IS NOT IN YOUR POSSESSION OR CONTROL WHICH WE HAVE ALREADY DISCUSSED.

#### **4) APPLICATIONS TO DISREGARD**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) - p. 65)*

YOU REPLY INDICATING THAT YOU HAVE APPLIED TO THE COMMISSIONER FOR THE APPLICATION TO BE DISREGARDED.

#### **APPLICATIONS TO DISREGARD/DISCONTINUE**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 161)*

APPLICATIONS TO DISREGARD ARE QUITE POPULAR THESE DAYS AND THEY OFTEN ARISE FROM SITUATIONS WHERE THERE ARE DIFFICULT APPLICANTS OR PENDING LAWSUITS INVOLVING THE RURAL MUNICIPALITY. WE HAVE RELEASED QUITE A FEW DECISIONS ON THIS TOPIC IN THE PAST YEAR AND I'M GOING TO MENTION A FEW.

APPLICATIONS TO DISREGARD ARE VERY SERIOUS. THAT IS BECAUSE TO REMOVE A CITIZEN'S RIGHT TO ACCESS TO INFORMATION INVOLVES TINKERING WITH A CITIZEN'S QUASI CONSTITUTIONAL RIGHT TO INFORMATION FROM A LOCAL AUTHORITY ( SO THE GROUNDS FOR THIS REQUEST MUST BE SOUND.

IN **DISREGARD DECISION 055-2026** THE RM'S REQUEST WAS GRANTED ON THE GROUNDS THAT THE ACCESS REQUEST WAS REPITIOUS AND SYSTEMATIC AND THAT IT UNREASONABLY INTERFERED WITH THE OPERATIONS OF THE LOCAL AUTHORITY. THAT REPORT REALLY WENT INTO A GREAT DEAL OF DETAIL AS TO HOW OUR OFFICE WILL JUDGE WHETHER OR NOT AN ACCESS REQUEST IS REPETITIVE OR SYSTEMATIC.

IN [DISREGARD DECISION 363-2025](#) (JANUARY 14, 2026) OUR OFFICE WAS ASKED TO DISREGARD AN APPLICATION UNDER ALL THREE GROUNDS IN SECTION 43.1(2) OF LA FOIP AND THIS REPORT EXAMINED EACH OF THE THREE OPTIONS AND WENT INTO DETAIL HOW TO ESTABLISH THEM:

- (A) IF THE PROCESSING OF THE ACCESS REQUESST WOULD UNREASONABLY INTERFERE WITH THE OPERATIONS OF YOUR LOCAL AUTHORITY;

- (B) IF THE ACCESS REQUEST ABUSES THE RIGHT OF ACCESS BECAUSE IT IS REPETITIOUS OR SYSTEMMATIC IN ITS NATURE; AND FINALLY
- (C) IF IT IS FRIVOLOUS AND/OR VEXATION AND NOT BROUGHT IN GOOD FAITH.

IN THAT CASE THE RURAL MUNICIPALITY APPLIED FOR A DISREGARD PURSUANT TO THIS SECTION BUT OUR OFFICE WAS NOT GIVEN SUFFICIENT EVIDENCE TO CONNECT THE THEME OF THE REPITITION WITHIN THE APPLICANT'S ACCESS REQUESTS. THIS APPLICANT HAD MADE 36 ACCESS REQUESTS OVER THE SPACE OF 3 YEARS BUT THE BOTTOM LINE TO THESE APPLICATIONS IS THAT THE BURDEN OF PROOF IS ON THE RURAL MUNICIPALITY. IT IS CLEAR THAT THERE IS SOME ONGOING LITIGATION BETWEEN THE APPLICANT IN THIS CASE AND THE RM. BUT OUR OFFICE HAS TO STAY INDEPENDENT. WE CANNOT CONDUCT OUR OWN INVESTIGATION IN A DISREGARD SITUATION. WE NEED YOU TO TELL US WHAT THE UNDERLYING THEME IS THAT TIES ALL THE ACCESS REQUESTS TOGETHER TO MAKE THEM REPITIOUS AND/OR SYSTEMMATIC. IN THIS CASE THE RM ALSO ISSUED A FEE ESTIMATE TO THE APPLICANT WHICH WAS PAID IN FULL. AS WE EXPLAIN IN THIS DISREGARD DECISION – SUCH A MOVE SHOWS THAT THE ACCESS REQUEST HAS BEEN CONSIDERED CAREFULLY TO THE EXTENT THAT THE WORK REQUIRED TO PRODUCE THE DOCUMENTS IS VIABLE. TO THEN APPROACH OUR OFFICE AFTER THE FACT AND ASK FOR A DISREGARD IS AT CROSS PURPOSES AND WE HAD TO REFUSE THE APPLICATION.

THEN, THERE ARE SOME CITIZENS THAT REMOVE THEMSELVES FROM THE ACCESS TO INFORMATION SCHEME ALTOGETHER BECAUSE OF THEIR ACTIONS AND ATTITUDES. ANOTHER EXAMPLE IS THE APPLICANT IN [REVIEW REPORT 026-2025](#) (AUGUST 12, 2025) THE APPLICANT WAS TOLD BY THE HEAD THAT THE DOCUMENT DID NOT EXIST. THIS WAS THE FIFTH APPLICATION ON THE PART OF THAT APPLICANT. ALL THESE APPLCIATIONS ORIGINATED FROM AN ISSUE THAT HAD BEEN THE SUBJECT OF LITIGATION BETWEEN THE APPLICANT AND THE SASK COLLEGE OF NURSES. AT THAT TIME, THE QUEEN’S BENCH JUDGE FOUND THAT THE APPLICANT’S PETITION IN THE CIVIL LAWSUIT WAS A NULLITY BECAUSE OF A FATAL OMISSION IN THE PLEADINGS. THE JUDGE REFUSED THE APPLICANT THE OPPORTUNITY TO AMEND THE OMISSION ON THE GROUNDS THAT THE LITIGATION WAS BEING BROUGHT ON FRIVOLOUS AND VEXATIOUS GROUNDS. IF YOU HAVE ANY FINDINGS THAT ARE SIMILAR TO THIS PLEASE BRING IT TO OUR ATTENTION BECAUSE ON THE STRENGTH OF THIS JUDGE’S FINDINGS ON THE EXACT SAME ISSUE AS THE ONE BEFORE US - WE INDICATED THAT WE WOULD NOT ACCEPT FURTHER APPLICATIONS FROM THIS APPLICANT.

IF YOU WANT MORE DETAIL ON THIS SUBJECT WHICH COULD BE THE SUBJECT OF AN HOUR LONG WEBINAR ALL ON ITS OWN – PLEASE CONSULT [REVIEW REPORT 055-2026](#) FOR A FULL DISCUSSION OF APPLICATIONS TO DISREGARD/DISCONTINUE. THIS IS OUR MOST RECENT RULING AND IT IS QUITE FULSOME AND WE HOPE OF ASSISTANCE IN THIS AREA. THE APPLICATION WAS GRANTED IN THIS REPORT AS WELL.

## **REQUESTING A REVIEW**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) - p. 66)*

EVERY SECTION 7 NOTICE MUST INDICATE TO THE APPLICANT THAT IF THEY ARE NOT SATISFIED WITH YOUR RESPONSE THEY CAN APPLY TO THE PRIVACY COMMISSIONER FOR A REVIEW. WE SUPPLY THE LANGUAGE AND IT IS HIGHLIGHTED HERE.

## **REFUSAL TO CONFIRM OR DENY THE EXISTENCE OF A RECORD:**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 66)*

THERE ARE THREE SPECIAL INSTANCES THAT ALLOW YOU AS A LOCAL AUTHORITY TO REFUSE TO CONFIRM/DENY THE EXISTENCE OF A DOCUMENT. THOSE THREE SITUATIONS ARE:

- 1) IF THE ACCESS REQUEST IS MADE WITH RESPECT TO A RECORD THAT INVOLVES A LAW ENFORCEMENT/INVESTIGATION EXEMPTION (SECTION 14 OF LA FOIP);
- 2) IF THE ACCESS REQUEST INVOLVES A RECORD THAT IF DISCLOSED COULD THREATEN THE SAFETY OR THE PHYSICAL/MENTAL HEALTH OF AN INDIVIDUAL (SECTION 20 OF LA FOIP); OR
- 3) IF THE ACCESS REQUEST INVOLVES A DOCUMENT PREPARED PURSUANT TO SOLICITOR/CLIENT PRIVILEGE (SECTION 21 OF LA FOIP)

IN THESE THREE INSTANCES THE HEAD MAY REFUSE TO CONFIRM OR DENY THE EXISTENCE OF THE RECORD. WE WILL ADDRESS THESE EXEMPTIONS IN PART 2 OF THIS PRESENTATION. THIS SECTION IS ONLY TO BE INVOKED IN THE CASE OF HIGHLY SENSITIVE RECORDS WHERE THE CONFIRMATION OR A CLEAR DENIAL OF THE EXISTENCE OF THE RECORD WOULD IMPOSE A SIGNIFICANT RISK TO THE COMMUNITY. FOR EXAMPLE, THE RISK OF HARM TO A WITNESS AS A RESULT OF REVEALING A LAW ENFORCEMENT INVESTIGATION IS UNDERWAY MUST BE PREVENTED AT ALL COSTS. ALTHOUGH THE PROPER APPLICATION OF THE EXEMPTION IN SECTION 14 OF LA FOIP COULD PROTECT RECORDS FROM BEING DISCLOSED THAT FALL INTO THIS CATEGORY, THIS PROVISION ENABLES THE LOCAL AUTHORITY TO ADDRESS RISKS THAT COULD OCCUR JUST BY REVEALING THAT RECORDS DO EXIST. WHEN IT COMES TO RECORDS THAT ARE PREPARED PURSUANT TO SOLICITOR/CLIENT PRIVILEGE – IT IS JUST EASIER TO CLAIM THE EXEMPTION PURSUANT TO SECTION 21 OF LA FOIP. HOWEVER, WE RECENTLY APPROVED OF THE APPLICATION OF REFUSAL TO CONFIRM/DENY IN A SOLICITOR CLIENT SITUATION BECAUSE IT WAS OBVIOUS FROM THE LAW SUITS INVOLVED THAT THE APPEAL PROCESS WAS A FEATURE OF THE ACCESS REQUEST AND IT WAS FORSEEABLE THAT THE RM DID NOT WANT TO CONFIRM/DENY THE EXISTENCE OF AN APPEAL. BUT THIS KIND OF ARGUMENT WILL BE RARE WHEN IT COMES TO SOLICITOR/CLIENT PRIVILEGE – IT IS USUALLY APPLIED IN THE CASE OF LEGAL INVESTIGATIONS SO THE CRIMINAL DOES NOT KNOW WHAT THE AUTHORITIES ARE DOING.

## **FINAL COMMENT ON SECTION 7 NOTICE:**

A SECTION 7 NOTICE SHOULD INCLUDE AN INDEX OF THE DOCUMENTS YOU ARE SENDING TO US ALONG WITH THE EXPLANATION FOR ANY REDACTIONS. YOU INCLUDE THE DOCUMENTS THEMSELVES IN AN UNREDACTED STATE FOR OUR REVIEW.

## **CONSIDER HOW YOU WILL PROVIDE ACCESS**

*(Guide to LA FOIP [CHAPTER 3 on "Access to Records"](#) – p. 95)*

**SECTION 10:** SUBSECTION 10(2) OF LA FOIP LAYS OUT WHEN YOU CAN GIVE SOMETHING TO AN APPLICANT IN ELECTRONIC FORM. BOTTOM LINE – YOU CAN GIVE INFORMATION ON A THUMB DRIVE IF IT IS “REASONABLY PRACTICAL” FOR YOU TO DO THIS AND IF THE APPLICANT AGREES TO ACCEPT IT. NOW IF THE RECORD IS VIDEO OR FILM, THE ACT ALLOWS YOU TO GIVE A TRANSCRIPT BUT THESE DAYS - VIDEO IS SO INGRAINED INTO EVERYONE’S CONSCIOUSNESS THAT IT IS NOT HARD TO PUT A VIDEO ONTO A THUMB DRIVE. DO NOT FORGET – THIS ACT WAS INTRODUCED IN JULY OF 1993 AND CELL PHONES DID NOT EVEN EXIST. WE RELEASED A REPORT IN JUNE 2025 WHERE THE SASKATOON POLICE GAVE BODY CAM VIDEO TO AN APPLICANT. THIS POLICE SERVICE PROPERLY REDACTED PARTS OF THE BODY CAM VIDEO AND THEY DID IT EXPERTLY. THAT WAS [REVIEW REPORT 051-2025](#).

# EXEMPTIONS UNDER WHICH INFORMATION MUST OR MAY BE WITHHELD

## SECTION 13 EXEMPTION - GOVERNMENT DOCUMENT EXEMPTION

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 21)*

RECORDS FROM OTHER GOVERNMENTS THAT HAVE BEEN PROVIDED IN CONFIDENCE EXPLICITLY OR IMPLICITLY.

THIS IS A MANDATORY EXEMPTION THAT ALLOWS A LOCAL AUTHORITY TO WITHHOLD A RECORD THAT IS OBTAINED IN CONFIDENCE FROM:

- 1) GOVERNMENT OF CANADA OR ITS AGENCIES;
- 2) GOVERNMENT OF SASKATCHEWAN OR A GOVERNMENT INSTITUTION;
- 3) THE GOVERNMENT OF ANOTHER PROVINCE OR TERRITORY IN CANADA;
- 4) GOVERNMENT OF A FOREIGN JURISDICTION;
- 5) AN INTERNATIONAL ORGANIZATION OF STATES, SUCH AS THE EUROPEAN UNION, THE UNITED NATIONS, OR NATO.

THERE ARE TWO IMPORTANT PRE-CONDITIONS TO NOTE TO THIS SECTION IN LA FOIP. THE FIRST IS THAT THIS IS A MANDATORY AS OPPOSED TO DISCRETIONARY EXEMPTION WHICH MEANS THAT IF YOU FIND THAT THIS EXEMPTION APPLIES YOU HAVE TO APPLY IT AND IF WE ARE DOING A REVIEW OF YOUR APPLICATION OF THIS EXEMPTION – WE WILL GIVE YOUR DECISION DUE DEFERENCE. WHICH MEANS THAT WE WILL GIVE YOUR DECISION DEFERENCE AND WILL ONLY DISAGREE WITH YOU IF WE FIND THAT YOU CONSIDERED AN IRRELEVANT CONSIDERATION OR FAILED TO CONSIDER A RELEVANT CONSIDERATION. SECOND – IF YOU HAVE CONSENT TO RELEASE THE DOCUMENT – THEN YOU CAN RELEASE IT – IF YOU DO NOT HAVE CONSENT TO RELEASE UNDER THIS SECTION THEN YOU CANNOT RELEASE THE DOCUMENT. THIS OFFICE USES A THREE PART TEST FOR THE ANALYSIS IN THIS EXEMPTION. THE FIRST PART OF THE TEST EXAMINES THE BODY THAT THE DOCUMENT WAS RECEIVED FROM TO ENSURE THAT IT FITS UNDER THE FIVE POSSIBLE SOURCES LISTED IN SECTION 13. THE SECOND PRONG OF THE TEST LOOKS AT WHETHER OR NOT THE DOCUMENT WAS OBTAINED IN CONFIDENCE.

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 30) EXPLICIT CONFIDENCE WILL INVOLVE A CLEAR MARKING ON THE DOCUMENT OR AN ATTACHED NOTE FROM THE BODY SAYING IT IS TO BE KEPT CONFIDENT.*

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 29) IMPLICIT CONFIDENCE WILL INVOLVE AN ANALYSIS OF THE CONTENT OF THE DOCUMENT AND ANY EVIDENCE THAT GOES TO THE INTENTIONS WITHIN THE BODY OF THE*

DOCUMENT THAT CLEARLY SHOWS THAT IT SHOULD BE KEPT CONFIDENTIAL. THE FACTORS THAT WILL ASSIST IN A DETERMINATION OF WHETHER OR NOT THE DOCUMENT WAS TO BE KEPT CONFIDENTIAL ARE NOTED HERE ON PAGE 29 OF THE GUIDE.

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 31)* THE THIRD PART OF THE TEST WILL EXAMINE WHETHER OR NOT THERE WAS CONSENT TO DISSEMINATE. IF THERE IS CONSENT – ENSURE YOU ALWAYS HAVE IT IN WRITING. EVEN IF YOU HAVE A VERBAL DISCUSSION AND YOU OBTAIN CONSENT – SEND A FOLLOW UP EMAIL CONFIRMING THAT CONSENT WAS OBTAINED ON THIS DATE AND AT THIS TIME.

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 45)* NOTE IN SECTION 13(2) THERE IS A DISCRETIONARY EXEMPTION FROM DISCLOSING INFORMATION OBTAINED FROM OTHER LOCAL AUTHORITIES IN CONFIDENCE. THEREFORE – YOU APPLY THIS TWO PART TEST: 1) YOU RECEIVED THE DOCUMENT FROM A LOCAL AUTHORITY AND 2) YOU RECEIVED IT IN CONFIDENCE – EITHER EXPLICITLY OR IMPLICITLY. IN [REVIEW REPORT 326-2019](#) THE LOCAL AUTHORITY WITHHELD A LETTER FROM THE MINISTRY OF JUSTICE BUT COULD NOT SUBSTANTIATE WHETHER THE LETTER WAS GIVEN EXPLICITLY OR IMPLICITLY IN CONFIDENCE.

## **SECTION 14 EXEMPTION - LAW ENFORCEMENT AND INVESTIGATIONS**

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 49)*

THERE IS ALWAYS A CONCERN THAT THE RELEASE OF THESE RECORDS WILL FRUSTRATE A POLICE INVESTIGATION AND AT THE SAME TIME ALERT CRIMINALS TO WHAT THE POLICE ARE DOING. WE HAVE RELEASED SEVERAL REPORTS THAT HAVE TAKEN GREAT CARE IN EXPLAINING THE IMPORTANT PRINCIPLES HERE AND RATHER THAN TAKE ANY MORE OF YOUR TIME I REFER YOU TO [REVIEW REPORT 019-2025](#) AND [051-2025](#) WHERE IN BOTH OF THESE CASES, THE SASKATOON POLICE SERVICE DID AN EXCELLENT JOB OF APPLYING THIS EXEMPTION.

## **SECTION 15 EXEMPTION - DOCUMENTS OF A LOCAL AUTHORITY**

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 101)*

THIS EXEMPTION IS BASED ON THE VERY SAME PRINCIPLES THAT ARE ATTACHED TO CABINET PRIVACY EXEMPTIONS IN FOIP. IN THAT ACT, THE SUPREME COURT OF CANADA HAS REPEATEDLY NOTED THAT MINISTERS OF THE GOVERNMENT AND THE PREMIER OR PRIME MINISTER FOR THAT MATTER, HAVE THE RIGHT TO DEBATE AND ARGUE OVER THE ISSUES THEY WISH TO ADDRESS AND THEY MUST BE ABLE TO OBTAIN ADVICE, PROPOSALS AND RECOMMENDATIONS FROM THEIR EMPLOYEES IN PRIVATE PRIOR TO COMING TO ANY DECISIONS. THIS EXEMPTION BASICALLY HOLDS THAT A DRAFT OF A RESOLUTION OR BYLAW OR THE SUBSTANCE OF ANY DELIBERATIONS OF A MEETING OF A LOCAL AUTHORITY MUST BE KEPT FROM DISCLOSURE IF THE ACT THAT AUTHORIZES THE HOLDING OF THE MEETINGS SAYS THAT THE MEETINGS MUST BE HELD *IN CAMERA* (WITHOUT THE PUBLIC) AND/OR IF THE SUBJECT MATTER BEING DISCUSSED COULD BE REFUSED PURSUANT TO THIS OR ANY OTHER EXEMPTION AND THE

EXEMPTION FOR PERSONAL INFORMATION OF INDIVIDUALS. IF THE DOCUMENT BEING REQUESTED IS 25 YEARS OR OLDER THEN IT **MUST** BE DISCLOSED. THE GUIDE MAKES A REALLY GOOD POINT THAT DRAFTS OF A BYLAW OR RESOLUTION MAY BE WITHHELD UNDER THIS EXEMPTION BUT THE FINAL VERSION MUST BE RELEASED.

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 105)* THE GUIDE ALSO REFERS TO THE FACT THAT SECTION 120(2) OF *THE MUNICIPALITIES ACT* ALLOWS COUNCILS AND COUNCIL COMMITTEES TO CLOSE ALL OR PART OF THEIR MEETINGS TO THE PUBLIC IF THE SUBJECT MATTER OF DISCUSSION INCLUDES EXEMPTED MATERIAL PURSUANT TO LA FOIP AND/OR LONG-RANGE OR STRATEGIC PLANNING MATTERS THAT MUST BE DEBATED OR CONSIDERED OR ARGUED ABOUT. A USEFUL EXAMPLE OF THE APPLICATION OF THIS EXEMPTION IS FOUND IN [REVIEW REPORT 098-2022](#).

#### **SECTION 16 EXEMPTION - ADVICE FROM OFFICIALS**

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 112)*

THIS EXEMPTION CARRIES OVER IN THE SAME CONTEXTUAL ANALYSIS AS THE EXEMPTION IN SECTION 15. INFORMATION THAT MAY BE CLASSIFIED AS ADVICE, PROPOSALS, RECOMMENDATIONS, ANALYSIS OR POLICY OPTIONS – MAY BE WITHHELD UNDER THIS EXEMPTION. AN EXAMPLE OF A SUCCESSFUL APPLICATION OF THIS EXEMPTION IS FOUND IN [REVIEW REPORT 098-2022](#). SUBSECTION 2 OF THIS EXEMPTION ALSO CARRIES THE EXCEPTION FOR INFORMATION THAT IS 25 YEARS OR OLDER.

## **SECTION 21 EXEMPTION – SOLICITOR/CLIENT PRIVILEGE**

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – p. 234 to 250)*

A RECORD THAT IS SUBJECT TO SOLICITOR/CLIENT PRIVILEGE. THIS IS A VERY TECHNICAL EXEMPTION AND A VERY TECHNICAL AREA OF THE LAW BUT IT IN ESSENCE INVOLVES ANY DOCUMENT WHERE YOUR LAWYER IS GIVING YOUR TOWN OR RURAL MUNICIPALITY LEGAL ADVICE WITH RESPECT TO A LEGAL ISSUE. THE CONTINUUM OF LEGAL ADVICE INCLUDES DISCUSSIONS LEADING UP TO THE PROVISION OF LEGAL ADVICE – SUCH AS SETTING OUT THE FACTS FOR YOUR LAWYER. YOU MAY WISH TO [REVIEW REPORT 001-2023](#) ON THIS ISSUE BECAUSE IT PROVIDES VERY HELPFUL GUIDANCE.

AND FINALLY,

## **SECTION 28(1) EXEMPTION – PERSONAL INFORMATION**

*(Guide to LA FOIP [CHAPTER 4: Exemptions from the Right of Access](#) – P. 265)*

A RECORD THAT CONTAINS PERSONAL INFORMATION CANNOT BE DISCLOSED UNLESS YOU HAVE THE CONSENT OF THE PERSON TO WHOM THE INFORMATION APPLIES. WHAT CONSTITUTES PERSONAL INFORMATION COULD BE THE SUBJECT OF A DAY LONG SEMINAR BUT TO KEEP THIS SHORT I WANT TO REFER YOU TO [REVIEW REPORT 291-2024](#) AT PARAGRAPHS [14] TO [37] WHERE THE ISSUE OF PERSONAL INFORMATION IS REALLY EXPLAINED WELL. YOU MAY ALSO FIND

REVIEW REPORT 108-2025 AT PARAGRAPHS [31] TO [38] TO BE OF ASSISTANCE IN YOUR EFFORTS UNDER THIS EXEMPTION.