



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 282-2024

Saskatchewan Research Council

October 31, 2025

Summary:

The Applicant submitted an access to information request to the Saskatchewan Research Council (SRC) for information related to the termination of their appointment as Chair of the SRC Board of Directors. SRC released records to the Applicant, in part, redacting information pursuant to sections 29(1) (third party personal information), 17(1)(b)(i) (consultations or deliberations), and 22(a) (solicitor-client privilege) and 22(c) (correspondence between legal counsel for the government institution and any other person) of *The Freedom of Information and Protection of Privacy Act (FOIP)*. Subsequently, the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner.

The Commissioner found that the SRC properly considered pages of the record as non-responsive to the Applicant's access to information request. The Commissioner also found that the SRC properly applied the mandatory exemption provided in section 29(1) of *FOIP* to some, but not all, redacted information. Further, the Commissioner found that the SRC properly applied section 17(1)(b)(i) of *FOIP* to the redacted information, with the exception of the headers, footers and subject lines of emails. The Commissioner also found that the SRC properly applied section 22(a) of *FOIP* to the records that it withheld. Although the Commissioner found the discretionary exemption for section 17(1)(b)(i) of *FOIP* was properly applied, there was a recommendation that the SRC reconsider its exercise of discretion with respect to the public interest in releasing the substantive materials that were withheld under that exemption. Because of the near absolute privilege attached to the discretionary exemption contained in section 22(a) of *FOIP*, the Commissioner did not find that a reconsideration of the public interest was required in that instance. The Commissioner found that the SRC conducted a reasonable search for records.

As a result of these findings, the Commissioner recommended that the SRC continue to withhold the records considered non-responsive to the Applicant's access to information request. The Commissioner also recommended that the SRC continue to withhold information where it was

found it had properly applied sections 29(1) and 22(a) of *FOIP*. Alternatively, where the Commissioner found that the SRC did not properly apply an exemption or did not meet the burden of proof, the Commissioner recommended that the SRC release the redacted information. The Commissioner recommended that the SRC reconsider its exercise of discretion with respect to the public interest in releasing the substantive material withheld pursuant to section 17(1)(b)(i) of *FOIP*. Further, the Commissioner recommended that the SRC take no further action regarding the search for records.

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I BACKGROUND

[1] On May 31, 2024, the Saskatchewan Research Council (SRC) received the following access to information request from the Applicant for the period spanning November 15, 2021 to March 30, 2022. The Applicant sought information related to their termination as Chair of the SRC Board of Directors (SRC Board). The Applicant requested the following information associated with the dates as given:

- 1) The SRC correspondence related to the decision to remove the former Chair and Vice-Chair of the SRC Board on January 19, 2022 and all correspondence with respect to the incoming Chair and Vice-Chair of the SRC Board.
- 2) The SRC correspondence related to the closure of the Applicant's 'Diligent' account on January 19, 2022.
- 3) The SRC communications related to the re-appointment of the former Chair and Vice-Chair of the SRC Board on January 21, 2022.
- 4) The SRC material/correspondence provided to the provincial Minister responsible for the SRC by the Chief Executive Officer of the SRC, corporate SRC employees and outside legal counsel prior to January 22, 2022, the date of an announcement of a planned review.
- 5) All material submitted during the review by the Chief Executive Officer of the SRC, corporate SRC employees and outside legal counsel.
- 6) A copy of the final review report and all associated correspondence which resulted from the review.

[2] On July 2, 2024, the SRC emailed the Applicant indicating that an initial search yielded a large number of potentially responsive records. The SRC invited the Applicant to clarify the access to information request, which the Applicant did via email the next day.

[3] On July 10, 2024, the SRC emailed a section 7 decision letter to the Applicant. The SRC released records to the Applicant, in part, redacting information pursuant to sections 29(1),

17(1)(b)(i), and 22(a) and (c) of *The Freedom of Information and Protection of Privacy Act (FOIP)*.¹

- [4] On July 23, 2024, the Applicant emailed the SRC to assert that some records were not provided. The Applicant attached a list of suggested missing records.
- [5] On July 30, 2024, the SRC emailed the Applicant informing that the search for responsive records resulted in a large number of records. A fee estimate of \$66 was quoted with a request for the payment of a \$33 deposit. On August 2, 2024, the Applicant mailed the deposit fee in full to the SRC.
- [6] On August 23, 2024, the SRC emailed an amended section 7 decision letter to the Applicant. The SRC released additional records in part, again redacting information subject to the exemptions contained in sections 29(1), 17(1)(b)(i) and 22(a) and (c) of *FOIP*.
- [7] On November 11, 2024, the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC). The requested review was to focus on the application of exemptions to the records by the SRC and its search efforts.
- [8] On December 18, 2024, this office engaged the SRC to facilitate an early resolution. On December 23, 2024, this office referenced the Applicant's list of missing items. The SRC was invited to conduct an additional search and to provide details with respect to the search efforts. On December 24, 2024, the SRC responded to these requests. On January 2, 2025, the SRC provided consent to share the response with the Applicant. Still, on January 2, 2025, the Applicant indicated dissatisfaction with the SRC response.
- [9] On January 13, 2025, OIPC notified the SRC and the Applicant that it would be undertaking a review. The SRC provided this office with an index of records, accompanied by unredacted and redacted copies of the responsive records on February 12, 2025. Both parties provided submissions on March 14, 2025.

¹ *The Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. F-22.01, as amended.

II RECORDS AT ISSUE

[10] The responsive record is 254 pages, of which 75 pages were released in full and 179 pages were withheld in full or in part. The redacted pages are primarily comprised of email messages and attachments, *Agency Data Update Forms*,² meeting notes, and investigation notes. The SRC applied sections 29(1), 17(1)(b)(i), 22(a) and/or 22(c) of *FOIP* to the withheld information. In addition to our analysis of the application of the exemptions, this review will also evaluate the reasonableness of the SRC search for records.

III DISCUSSION OF THE ISSUES

1. Ascertaining Jurisdiction

[11] The SRC³ qualifies as a “government institution” pursuant to section 2(1)(d)(ii) of *FOIP*⁴ and section 3 and PART I of the Appendix of *The Freedom of Information and Protection of Privacy Regulations (FOIP Regulations)*.⁵ Therefore, this office has jurisdiction to conduct this review pursuant to PART VII of *FOIP*.

2. Non-responsive records

[12] When a government institution receives an access to information request, it must determine what information will be responsive to the access request. “Responsive” means relevant. Relevant records mean any records reasonably related to the request. It follows that any

² The *Agency Data Update Forms* appear to be forms that the SRC uses to collect and update information with respect to the members of the SRC Board.

³ According to the SRC “[Our Company](#)” webpage, the SRC is a Treasury Board Crown corporation. Treasury Board Crown corporations are created pursuant to section 14 of [The Crown Corporations Act, 1993](#), SS 1993, c. C-50.101, as amended.

⁴ See OIPC [Review Report 143-2014](#) at paragraph [4].

⁵ [The Freedom of Information and Protection of Privacy Act Regulations](#), F-22.01, Reg 1 (effective April 1, 1992), as amended.

information or records that do not reasonably relate to an applicant's request will be considered "not (or non) responsive."⁶

[13] The following should be taken into consideration when determining if information is non-responsive:⁷

- The request must set out the boundaries of relevancy and circumscribe the records or information that will ultimately be identified as responsive.
- A government institution can remove information as non-responsive only if the applicant has requested specific information be removed, such as the applicant's personal information.
- A government institution may treat portions of a record as non-responsive if they are separate, distinct, and entirely unrelated to the access request. However, this use must be made sparingly and only where necessary.
- If the applicant's desires are unclear, a government institution should consult the applicant for clarification. Generally, ambiguity in a request should be resolved in the applicant's favour.
- Non-responsive records should *not* be released as a resource-saving endeavour.⁸

[14] The SRC invited the Applicant to clarify and/or confirm if they wished to receive copies of records that the Applicant had already provided to the SRC, as well as records for which the Applicant was a direct or copied recipient. The Applicant's response on July 3, 2024, instructed that they wanted copies of all *forwarded* messages, but that they were already in possession of messages and attachments for which they were a direct or copied recipient.

[15] The SRC denied the Applicant access to 11 pages on the basis that they were non-responsive. Of those 11 pages, pages 21 to 29 included a correspondence log previously

⁶ See OIPC [Review Report 002-2025](#) at paragraph [49].

⁷ See OIPC [Review Report 148-2024, 163-2024](#) at paragraph [40].

⁸ [*Kasprick v Saskatchewan Power Corporation*](#), 2025 SKKB 139, Sask. K.B. (Davis J.) at paragraphs [62] to [64].

documented by the Applicant and pages 236 and 237 included a letter written by the Applicant to the provincial Minister responsible for the SRC.

[16] This office agrees that the correspondence log and the letter to the Minister are indeed non-responsive material.

[17] There is a finding that the SRC properly considered the pages outlined at paragraph [15] as non-responsive to the Applicant's access to information request. Based on that finding, there will be a recommendation that the SRC continue to withhold the pages outlined at paragraph [15] as non-responsive to the Applicant's access to information request.

3. Did the SRC properly apply section 29(1) of *FOIP*?

[18] The SRC denied the Applicant access to one page in full and denied access, in part, to 39 other pages, citing the exemption contained in section 29(1) of *FOIP* as the reason. No additional exemptions were applied to the same information.

[19] Section 29(1) of *FOIP* provides:

29(1) No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 30.

[20] As a *mandatory* exemption, section 29(1) of *FOIP* prohibits the disclosure of personal information unless the individual about whom the information pertains, grants consent to its disclosure or if disclosure without consent is authorized by one of the enumerated exceptions in sections 29(2), (3), or (4) of *FOIP*. None of the enumerated exceptions applied in the final analysis of this matter. The only issue is that of consent.

[21] For section 29(1) of *FOIP* to be engaged, the information must qualify as "personal information," as defined by section 24(1) of *FOIP*.

[22] The Applicant's submission was silent with respect to the decision of the SRC to refuse access to information considered the personal information of individuals other than the Applicant.

[23] The SRC submission explained the reason for withholding the information while relying on section 29(1) of *FOIP*, as follows:

... The information withheld in the Redacted Portions pursuant to section 29(1) of *FOIP* includes:

(a) the personal email addresses of various SRC current and former Board members and executive;

(b) various personal information of SRC Board appointees, including their home address, employment information, gender identity, remuneration, etc.;

(c) the personal opinions or views of individuals ...

(d) the employment history of various current and former SRC Board members, including the date of their appointment or removal and their remuneration.

[24] The following is our analysis whether the information withheld qualifies as personal information, as defined by *FOIP*.

Names, job titles, years of service, and dates of initial appointment, re-appointment, and cancellation of appointment of the SRC Board members

[25] The SRC redacted the names, job titles, years of service, and dates of appointment, re-appointment, and cancellation of appointment of the SRC Board members in 29 pages. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
3	1 and 2	Email message
9	1, 2, and 3	Email message
10	1, 2, and 3	Email message
13	1 and 2	Email message
17	1 and 2	Email message
19	1 and 2	Email message

31	1 and 2	Email message
80 to 88	1, 2, 3, 4, 8, and 9	The SRC Board member profiles on <i>Agency Data Update Forms</i>
89	1	Email message
112	1 and 2	Email message
127	1	Email message
136	1 and 2	Email message
139	1 and 2	Email message
157	“Days in Q4” and “Days in Board Position” columns	Table within an email message
158	“Notes” column	Table in attachment to email message
194	1, 2, 3, 4, 5, and 6	Email message
196	1, 2, 3, 4, 5, 6, and 7	
202	1, 2, 3, 4, 5, and 6	Email message
205	1	Email message
207	1 and 2	Email message
209	1 and 2	Email message

[26] The names, job titles, years of service, and dates of initial appointment, re-appointment, and cancellation of appointment of the SRC Board members are a matter of public record for those appointed to the SRC Board. Job titles like “Chair,” “Vice-Chair,” and “Secretary” are clearly identified in the SRC annual reports issued by the SRC and available for public viewing on the website.⁹ The SRC Board memberships are the result of “orders in council”, directives issued by the Lieutenant Governor of Saskatchewan on the advice of Cabinet. Orders in council (including those that reference the initial appointments, re-appointments, and cancellations of appointments of the people whose names are in the records) are also available for public viewing.¹⁰

[27] Section 3(1)(b) of *FOIP* provides:

3(1) This Act does not apply to:

...

(b) material that is a matter of public record; or

⁹ For example, see the SRC [Annual Report 2020-2021](#) at page 7.

¹⁰ Orders in Council are available via the [King’s Printer Publications Centre](#).

- [28] Subsequently, section 3(1)(b) of *FOIP* does not facilitate a withholding of names, job titles, years of service, and dates of initial appointment, re-appointment, and cancellation of appointment of the SRC Board members pursuant to section 29(1) of *FOIP* because this information is all a matter of public record.
- [29] With regards to the “Days in Q4” column within page 157, the information redacted within the table does not constitute personal information. The data reflects basic calendar math. With regards to the “Days in Board Positions” column on the same page, the information redacted from the table also does not constitute personal information because the amount of time held by any given the SRC Board member is not an identifying factor. Given that SRC Board members are appointed through Orders in Council, the number of days that those appointed members have held the position is, again, easily calculable by basic math.
- [30] There is a finding that the SRC did not properly apply section 29(1) of *FOIP* to the redacted information noted in the table at paragraph [25]. There will be a recommendation that, within 30 days of the issuance of this Report, the SRC release to the Applicant the information in the redactions noted in the table at paragraph [25].

Home addresses and home constituencies

- [31] The SRC redacted the home addresses and home constituencies of the SRC Board members in ten pages. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
80 to 88	4 and 5	The SRC Board member profiles on <i>Agency Data Update Forms</i>
90	Withheld in full	Draft letter

- [32] Section 24(1)(e) of *FOIP* is relevant to this information. It provides:

24(1) Subject to sections (1.1) and (2), “**personal information**” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(e) the home or business address, home or business telephone number or fingerprints of the individual;

- [33] Based on a review of the *Agency Data Update Forms* and draft letter, the “home addresses” appear to include the street addresses, cities, province, and postal codes of the SRC Board members. This office has historically found that home addresses, including street addresses and postal codes, like those redacted within the record, constitute personal information under section 24(1)(e) of *FOIP*.¹¹
- [34] The home addresses (including street addresses, cities, province, and postal codes) at redaction 4 within the *Agency Data Update Forms* and within the draft letter do constitute personal information pursuant to section 24(1)(e) of *FOIP*. There is a finding that the SRC properly applied section 29(1) of *FOIP* to this information. Given that there is no consent to share this information, there will be a recommendation that the SRC continue to withhold the home addresses redacted within the nine pages of *Agency Data Update Forms* and address on the one-page draft letter.
- [35] The SRC also redacted home constituencies for the SRC Board members at redaction 5 of the *Agency Data Update Forms*. According to Elections Saskatchewan, a “constituency (also known as ridings, electoral districts)” is “a geographic area defined in *The Constituency Boundaries Act, 1993* and represented in the Legislative Assembly by an MLA.”¹² The SRC used the term “home constituency” to refer to the electoral district in which each SRC Board member resided. Elections Saskatchewan provides maps to identify the 61 constituencies in the province, each comprised of thousands of residents.¹³ Without additional information, the home constituencies are simply too large to be able to identify an individual.

¹¹ See OIPC [Review Report 078-2018](#) at paragraph [47].

¹² See Elections Saskatchewan’s resource [Glossary of Terms](#) for “Constituency.”

¹³ See Elections Saskatchewan’s resource [2028 Provincial Election Maps](#).

[36] This office has previously established that, once other information within a record is redacted to de-identify personal information, remaining data elements must be sufficiently unidentifiable making the remaining data elements releasable.¹⁴ In the present case, the record has been sufficiently de-identified to allow for the release of the home constituency information.

[37] Because of the redactions of the home addresses of the SRC Board members, the home constituencies, not associated with any other identifying data elements of a personal nature, do not constitute personal information. There is a finding that the SRC did not properly apply section 29(1) of *FOIP* to the redacted home constituency information noted in the table at paragraph [31]. There will be a recommendation that, within 30 days of the issuance of this Report, the SRC release the home constituency information withheld in the nine pages of *Agency Data Update Forms* noted in the table at paragraph [31].

Personal email addresses

[38] The SRC redacted the personal email addresses of the SRC Board members in a total of eight pages. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
20	1 and 2	Email message
34	1	Email message
93	1	Email message
100	1, 2, 3, and 4	Email message
106	2, 3, 4, 5, 6, and 7	Email message
109	1, 2, and 3	Email message
129	1, 2, and 3	Email message
137	1, 2, and 3	Email message

[39] On the face of the record, the emails concern the SRC Board-related business. In other words, the personal email addresses appear to be of the SRC Board members using their personal email addresses to conduct the SRC Board-related business. But since the SRC Board members are not employees of the SRC, it is not surprising that personal email

¹⁴ See OIPC [Review Report 063-2023](#) at paragraph [18].

addresses are used in connection to their advisory duties to the organization and their service on the SRC Board.

[40] In *Schiller v. Government of Saskatchewan (Ministry of Education)*, the interrelation between sections 24 and 29 of *FOIP* were explained:¹⁵

[32] The operation of s. 29(1) is informed by s. 24 of the *FIPPA*. Section 24 defines personal information as information about an identifiable individual which is personal in nature. For present purposes, the relevant portions of s. 24(1) read as follows:

Interpretation

24(1) Subject to subsections (1.1) and (2), “**personal information**” means personal information an identifiable individual that is recorded in any form, and includes:

...

e) the home or business address, home or business telephone number or fingerprints of the individual;

...

[33] As well, ss. 29(2)(p) of the *FIPPA* is relevant to the issue at hand. It creates an exemption for the disclosure of personal information, as follows:

29(2) Subject to any other Act or regulation, personal information in the possession or under the control of a government institution may be disclosed:

...

(p) if the information is publicly available, including information is prescribed as publicly available;

[Emphasis added]

[34] “Publicly available” information is information “available or accessible by the citizenry at large”: *Lukacs v Canada v. Canada (Transport, Infrastructure and Communities)*, 2015 FCA 140 at para 69, 386 DLR (4th) 163. In addition to personal information, this would include an individual’s professional

¹⁵ *Schiller v Government of Saskatchewan (Ministry of Education)*, 2025 SKKB 146. Justice Mitchell referred to *FOIP* as *FIPPA* in his ruling. Since *FIPPA* is often used in the privacy world to refer to the Ontario legislation, this report will conform to the traditional usage of the term “*FOIP*” when referring to the Saskatchewan legislation.

information. However, only if professional information such as business emails or cellphone numbers is publicly available can it be disclosed without the approval of the individual in question. ...

- [41] Given that none of the withheld email addresses are publicly available, and there is no evidence of consent to disclose, there is a finding that the SRC properly applied section 29(1) of *FOIP* to the personal email addresses of the SRC Board members. There will be a recommendation that the SRC continue to withhold the personal email addresses used to conduct the SRC-related business, noted in the table at paragraph [38].

Gender identities and pronouns

- [42] The SRC redacted the gender identities and pronouns associated with SRC Board members in 12 pages. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
3	3	Email message
13	3	Email message
80 to 88	10	The SRC Board member profiles on <i>Agency Data Update Forms</i>
112	3	Email message

- [43] Section 24(1)(a) of *FOIP* may be relevant to this information. It provides:

24(1) Subject to sections (1.1) and (2), “*personal information*” means personal information about an identifiable individual that is recorded in any form, and includes:

(a) information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;

- [44] While the provision does not specifically state “gender” among the information that relates to an individual, this office has historically adopted the definition of gender as outlined by *Canadian Institutes of Health Research*: “Gender refers to the socially constructed roles, behaviours, expressions and identities of girls, women, boys, men, and gender diverse

people.”¹⁶ Further, we have previously found that gender identities, like those redacted in the records, constitute personal information under *FOIP*.¹⁷ Pronouns relate to gender identity insofar as they are the words an individual may employ to reflect their gender identity.

- [45] Based on a review of the records, the SRC understanding of gender identities reflects the definition above. As such, there is a finding that the gender identities and pronouns redacted in the record constitute personal information pursuant to section 24(1)(a) of *FOIP*. There is a finding that the SRC properly applied section 29(1) of *FOIP* to the gender identities and pronouns. Based on these findings, there will be a recommendation that the SRC continue to withhold the gender identities within the nine pages of *Agency Data Update Forms* and pronouns on three pages of email messages noted in the table at paragraph [42].

Remuneration information

- [46] The SRC redacted information related to remuneration for the SRC Board members in ten pages. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
80	“Remuneration” category dollar amounts	The SRC Board member profile on <i>Agency Data Update Form</i>
82 to 88	“Remuneration” category dollar amounts	The SRC Board member profile on <i>Agency Data Update Forms</i>
157	“Retainer” and “Prorated Retainer” columns	Table within an email message. Released is the title of each column: Days in Q4, Days in Board position, Retainer and Prorated Retainer. Values for five individuals are redacted in each column.
158	“Amount” column	Table within an email message attachment. Released is the title of each column: Name, Amount and Notes. Only name in combination with amount is being considered here.

¹⁶ See *Canadian Institutes of Health Research* article “[What is gender? What is sex?](#)”

¹⁷ See OIPC [Review Report 103-2024](#) at paragraph [49].

[47] These ten pages of records all reflect the compensation of the SRC Board members.¹⁸

[48] The SRC identifies itself as a Saskatchewan Treasury Board Crown corporation.¹⁹

[49] Section 2(1)(d)(ii)(A) of *FOIP* defines a “government institution” as follows:

2(1) In this Act:

...
(d) “**government institution**” means, subject to subsection (2):

...
(ii) any prescribed board, commission, Crown corporation or other body, or any prescribed portion of a board, commission, Crown corporation or other body, whose members or directors are appointed, in whole or in part:

(A) by the Lieutenant Governor in Council;

[50] As noted previously, the SRC is prescribed as a government institution at PART I of the Appendix of *FOIP Regulations*.

[51] The SRC Board members are appointed through Orders in Council by the Lieutenant Governor in Council.²⁰

[52] Based on a review of the records, the remuneration information appears to include retainer amounts and other allotted expenses established by the Treasury Board.²¹

¹⁸ See [The Research Council Act](#), revised SS 1978, c. R-21, as amended, at section 6.

¹⁹ See SRC ["Our Company"](#) webpage.

²⁰ *Supra*, footnote 18 at section 3(1).

²¹ See the SRC [Annual Report for 2022-2023](#) at page 8. See also, the Treasury Board *Financial Administration Manual*: “Section 5005 Per Diem Rates (Boards Commissions and Committees)” outlines how retainers, honoraria, and per diem compensation are authorized. This resource is publicly available via the Government of Saskatchewan website. This section of the Treasury Board’s *Financial Administration Manual* is available at [Government of Saskatchewan Publications Centre](#).

[53] This office acknowledges that the information withheld by the SRC is available online by way of combining various Orders in Council with the SRC annual report information, suggesting that section 3(1)(b) of *FOIP* may also be engaged. For example, the prorated amounts can be easily determined by applying basic math to publicly available retainer amounts.

[54] There is a finding that the SRC did not properly apply section 29(1) of *FOIP* to the redacted information noted at paragraph [46]. There will be a recommendation that, within 30 days of the issuance of this Report, the SRC release the remuneration information noted at paragraph [46].

Personal opinions or views and views or opinions about others

[55] The SRC redacted what it describes as the personal views or opinions *of an individual* in two pages. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
18	1 and 2	Email message
30	1	Email message

[56] Sections 24(1)(b), (f), and (h) of *FOIP* may be relevant to this information. They provide:

24(1) Subject to sections (1.1) and (2), “**personal information**” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

...

(f) the personal opinions or views of the individual except where they are about another individual;²²

...

²² In this instance this is an SRC Executive team member’s opinion about someone other than the Applicant.

(h) the views or opinions of another individual with respect to the individual;

[57] On the face of the record with respect to redaction 2 on page 18, it would appear that an SRC Executive team member has given an opinion about their own workplace status and performance. In terms of *FOIP*, this constitutes a personal view *about themselves*, pursuant to section 24(1)(f) of *FOIP*. However, redaction 1 on page 18 and redaction 1 on page 30 involves material withheld that appears to be an SRC Executive team member's views *about the Applicant* for which section 24(1)(h) of *FOIP* may be engaged.

[58] The content we have identified above is, according to section 24(1)(h) of *FOIP*, the Applicant's own personal information, rather than that of the SRC Executive team member about themselves. Section 31(1) of *FOIP* provides:

31(1) Subject to Part III and subsection (2), an individual whose personal information is contained in a record in the possession or under the control of a government institution has a right to, and:

(a) on an application made in accordance with Part II; and

(b) on giving sufficient proof of his or her identity; shall be given access to the record.

[59] As such, redaction 2 on page 18, as noted in the table at paragraph [55], constitutes the personal information of an individual with respect to themselves and is properly redacted pursuant to the combined effect of sections 24(1)(f) and 29(1) of *FOIP*. Redaction 1 on page 18 and redaction 1 on page 30, as noted in the table at paragraph [55], is an individual's opinion *about the Applicant*, which constitutes the Applicant's personal information pursuant to section 24(1)(h) of *FOIP*, and therefore was improperly redacted pursuant to section 31(1) of *FOIP*. There is a finding that the SRC did not properly apply section 29(1) of *FOIP* to redaction 1 on page 18 and redaction 1 on page 30.

[60] There will be a recommendation that the SRC continue to withhold the SRC Executive team member's opinion with respect to themselves (redaction 2 on page 18) pursuant to sections 24(1)(f) and 29(1) of *FOIP*. However, there will also be a recommendation that,

within 30 days of the issuance of this Report, the SRC release to the Applicant information that represents an opinion about the Applicant (redaction 1 on page 18 and redaction 1 on page 30).

4. Did the SRC properly apply section 17(1)(b)(i) of *FOIP*?

[61] The SRC applied section 17(1)(b)(i) of *FOIP* to three pages in part and 99 pages in full. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
6	1 and 2	Email message
7	2	Email message
17	1	Email message
37 to 48	Withheld in full	Email messages
59 to 75	Withheld in full	Email messages
95 to 99	Withheld in full	Email message attachments
131 to 134	Withheld in full	Email message attachments
148 to 156	Withheld in full	Email message attachments
170 to 174	Withheld in full	Email message attachments
178 to 186	Withheld in full	Email message attachments
188 to 191	Withheld in full	Email message attachments
210 to 212	Withheld in full	Email messages
215 to 217	Withheld in full	Email messages
223 to 235	Withheld in full	Email messages
238 to 239	Withheld in full	Email message attachment
240 to 250	Withheld in full	Email message attachments
253 to 254	Withheld in full	Email messages

[62] Section 17(1)(b)(i) of *FOIP* provides:

17(1) Subject to section (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

...

(b) consultations or deliberations involving:

(i) officers or employees of a government institution;

[63] OIPC uses the following two-part test to determine if section 17(1)(b)(i) of *FOIP* applies:²³

1. Does the record contain consultations or deliberations?
2. Do the consultations or deliberations involve officers or employees of a government institution, a member of the Executive Council, or the staff of a member of the Executive Council?

[64] The following is the analysis of this office to determine if the SRC properly applied section 17(1)(b)(i) of *FOIP*.

1. Does the record contain consultations or deliberations?

[65] The Applicant's submission explained:

These records relate to my performance as SRC Board Chair. They should be released. I had responsibilities in relationship to all aspects of the operations of the organization. ... The investigative report was never made available.

As a result of this flawed review, my Board appointment was terminated. These documents are directly related to me and these records should be released to me.

[66] In the March 14, 2025 submission to this office, the SRC asserted that the redacted material contained deliberations and consultations that took the following form:

... The email correspondence and accompanying attachments in the Redacted Portions contain deliberations and consultations ... Many of these deliberations and consultations relate to decisions of the Board with respect to matters raised as part of the Investigation.

These consultations and deliberations take various forms in the Redacted Portions including in the development of draft documents and commentary on those drafts both in the documents themselves and in comments and email correspondence relating to the draft documents. For example, the Redacted Portions contain feedback and responses to specific questions regarding the Investigation and other items.

²³ See OIPC [Review Report 232-2024](#) at paragraph [36].

.... Such feedback and responses are clearly for the purpose of obtaining the views of one or more officers or Board members of SRC for the purpose of determining the appropriateness of a particular past or future course of action.

[67] As noted above, the SRC claimed the redacted material contained “consultations” or “deliberations.” OIPC has defined these terms as follows:²⁴

- “Consultation” means the act of consulting or taking counsel together: deliberation, conference. A consultation can occur when the views of one or more officers or employees of a government institution are sought as to the appropriateness of a particular proposal or suggested action. It can include consultations about prospective future actions and outcomes in response to a developing situation. It can also include past courses of action.
- “Deliberation” means the act of deliberating (to deliberate: to weigh in mind; to consider carefully with a view to a decision; to think over); careful consideration with a view to a decision; the consideration and discussions of the reasons for and against a measure by a number of counsellors.

[68] It warrants noting that the SRC redacted the headers, footers, and subject lines of the emails noted in the table at paragraph [61] pursuant to section 17(1)(b)(i) of *FOIP*.²⁵

[69] As we shall shortly see, the substantive material within the body of the emails qualifies as consultations/deliberations. However, the SRC was silent with respect to the application of this discretionary exemption to the headers, footers and subject lines of these emails. This office has previously found that section 17(1)(b) of *FOIP* does not apply to headers, footers, and subject lines in emails.²⁶ Section 61 of *FOIP* places the burden of proof squarely upon the party seeking to establish the exemption. This office must always maintain its independence from the parties during a review, so if a party wishes to apply an exemption, it must be sufficiently argued in the submission to this office. As such, there will be a finding that the SRC did not meet the burden of proof in demonstrating section

²⁴ See OIPC [Review Report 263-2024](#) at paragraph [35].

²⁵ We refer specifically to the headers, footers and subject lines of pages 37 to 48, 59 to 75, 210 to 212, 215 to 217, 223 to 235, 253 and 254 in the table in paragraph [61].

²⁶ See OIPC [Review Report 016-2024](#) at paragraph [173].

17(1)(b)(i) of *FOIP* applies to the headers, footers, and subject lines of the emails noted in the table at paragraph [61].

[70] No other exemptions were applied to the headers, footers, and subject lines in the emails noted in the table at paragraph [61], so there will be a recommendation that, within 30 days of issuance of this Report, the SRC release to the Applicant the headers, footers and subject lines of the emails on these pages.

[71] An analysis of the substantive content of the emails themselves, including attachments, follows next.

[72] Within the emails as outlined in paragraph [61], it appears that information is present signalling the activity of two or more parties taking counsel together. This counsel includes the consideration of next steps in a developing situation involving the SRC Board members (consultations). Moreover, portions of these records appear to reflect careful consideration of reasons for and against certain measures to be taken. It also appears that there is discussion with respect to a decision to be taken (deliberations). In other words, decision makers sought guidance for the purpose of making decisions about (and subsequently, taking actions regarding) an on-going situation of concern. This is evident in the following examples:

- Pages 6 and 7 (Redactions 1 and 2 on page 6 and redaction 2 on page 7): an email chain from January 30, 2022, between the SRC Executive team members that appear to provide an update to the status of an ongoing consideration (consultations).
- Pages 131 to 134 (withheld in full): a document shared amongst members of the SRC Executive team that appear to compile information for the purpose of it being weighed in mind to make decisions about the SRC governance and leadership (deliberations).

[73] Therefore, the information redacted in the pages of the record noted in the table at paragraph [61] constitute either consultations or deliberations. Consequently, the first part of the test is met.

2. Do the consultations or deliberations involve officers or employees of a government institution, a member of the Executive Council, or the staff of a member of the Executive Council?

[74] The Applicant's submission to OIPC does not specifically address the second part of the test for section 17(1)(b)(i) of *FOIP*. In the submission to OIPC, the SRC further asserted:

The Redacted Portions include deliberations and consultations between SRC Board members, executive and others, including members of the Executive Council (or staff of a member of the Executive Council) and deliberations and consultations internally among SRC executive, Board members and other personnel. ...

[75] Again, relevant definitions must be established:²⁷

- “Involving” means including.
- “Employee of a government institution” means an individual employed by a government institution and includes an individual retained under a contract to perform services for the government institution.

[76] On the face of the record, the email senders and recipients are all the SRC Executive team members (such as the CEO and vice presidents) and the SRC Board members (such as the chair, vice-chair, and members at large).

[77] OIPC has established that consultations amongst officers or employees of a government institution meet the second part of the test for section 17(1)(b)(i) of *FOIP*.²⁸ Subsequently, in the present case, the consultations in the records *involve* employees of a government institution (SRC). Therefore, the second part of the test is met.

[78] There is a finding that the SRC properly applied section 17(1)(b)(i) of *FOIP* to the redacted information noted in the table at paragraph [61], with the exception of headers, footers, and subject lines. Based on this finding, there will be a recommendation that the SRC continue

²⁷ *Supra*, footnote 23 at paragraph [37].

²⁸ See OIPC [Review Report 220-2022, 255-2022](#) at paragraph [101].

to withhold the redacted information noted in the table at paragraph [61] pursuant to section 17(1)(b)(i) of *FOIP*, with the exception of the headers, footers, and subject lines of the emails for which this office recommended release at paragraph [70].

5. Did the SRC properly apply section 22(a) of *FOIP*?

[79] Having concluded that section 17(1)(b)(i) of *FOIP* was properly applied, we will not further consider the records to which the SRC applied both sections 17(1)(b)(i) and 22(a) of *FOIP*.

[80] The remaining records at issue include 33 pages withheld in part and 16 pages withheld in full pursuant to section 22(a) of *FOIP*. The pages are email correspondence (including attachments) between Executive Council staff, lawyers at the Ministry of Justice and Attorney General (Justice), and the SRC staff, as well as email messages between the SRC Executive team members and lawyers from Justice and MLT Aikins. The following table represents the specific redactions:

Pages	Redactions	Record Descriptions
4	1	Email message
5	1	Email message continued from page 4
6	3	Email message
7	1	Email message continued from page 6
14	1	Email message (a duplicate of page 4)
15	1	Email message (a duplicate of page 5)
49	1	Email message
50 to 53	Withheld in full	Forwarded SRC Board email chains
54 and 55	Withheld in full	Forwarded SRC Board email attachment
56	Withheld in full	Forwarded SRC Board email attachment
57 and 58	Withheld in full	Forwarded letter
59 to 64	Headers, footers, and subject lines	Forwarded SRC Board email chains
65 and 66	Headers, footers, and subject lines	Forwarded email attachment

113	1	Email message (a duplicate of page 4)
114	1	Email message (a duplicate of page 5)
205	2	Email message
206	1	Email message continued
208	1	Email message (a duplicate of page 205)
213 and 214	Withheld in full	Email messages
218 and 219	Withheld in full	Email message
220 and 221	Withheld in full	Email messages
222	Withheld in full	Email messages
242 to 254	Headers, footers, and subject lines	Forwarded SRC Board email chain

[81] Section 22(a) of *FOIP* provides:

22 A head may refuse to give access to a record that:

(a) contains any information that is subject to any privilege that is available at law, including solicitor-client privilege;

[82] As a discretionary, class-based provision, section 22(a) of *FOIP* permits refusal of access in situations where a record contains information that is subject to any legal privilege, including solicitor-client privilege. The SRC has asserted in its submission to OIPC that the above pages are subject to solicitor-client privilege.

[83] OIPC uses the following test to determine if section 22(a) of *FOIP* applies where solicitor-client privilege is at issue:²⁹

1. *What is the nature or scope of the communication:* Is the record a communication between solicitor and client or communications between parties within the continuum of the giving of legal advice?³⁰

²⁹ See OIPC [Review Report 154-2024](#) at paragraph [181].

³⁰ We rely on [R v Campbell](#), [1999] 1 SCR 565 where, at paragraph [49], Binnie J. noted that where government lawyers give legal advice to a “client department” or “government agency”, solicitor-client privilege is engaged. See also [Pritchard v Ontario \(Human Rights Commission\)](#), [2004] 1 SCR 809 at paragraph [36] where in-house counsel gave a legal opinion to the Human Rights

2. *What is the substance of the communication:* Does the communication entail the seeking or giving of legal advice or involve a discussion within the continuum of the giving of legal advice?
3. Did the parties intend for the communication to be treated confidentially?

1. *What is the nature or scope of the communication?*

[84] The Applicant's submission asserted that communications between a lawyer and a client are outside the protection offered by solicitor/client *privilege if they are conducted within the context of an intentional criminal act* – which is what the Applicant alleges is the context for the communications here.

[85] In the submission to this office, the SRC asserted:

... The Redacted Portions contain email correspondence between SRC and its various legal counsel, including legal counsel at MLT Aikins LLP ... (“MLTA”) and the Government of Saskatchewan – Saskatchewan Ministry of Justice and Legal Services Division These email communications also include attachments and additional forwarded emails....

[86] For the purposes of analysis, relevant definitions must be established:³¹

- A “communication” is the process of bringing an idea to another’s perception; the message or ideas so expressed or exchanged; the interchange of messages or ideas by speech, writing, gestures, or conduct.
- “Solicitor” means a lawyer who is duly admitted as a member and whose right to practice is not suspended. “Lawyer” means a member of the Law Society and includes a law student registered in the Society’s pre-call training program.
- “Client” means a person who consults a lawyer and on whose behalf the lawyer renders or agrees to render legal services; or, having consulted the lawyer, reasonably concludes that the lawyer has agreed to render legal services on his or her behalf and includes a client of the law firm of which

Commission as a “client”. The scope of the legal advice can apply to a corporate or government agency as a “client”. This envisages more than one individual as a client as opposed to the traditional nature of one solicitor and one client.

³¹ See OIPC [Review Report 137-2024](#) at paragraph [57].

the lawyer is a partner or associate, whether or not the lawyer handles the client's work.

[87] All of the pages at issue are clearly identifiable as written communications containing the provision of legal advice between a client (Executive Council or the SRC Executive team members) and counsel. The five lawyers identified by the SRC in the submission have been verified by this office to be current members of the Law Society of Saskatchewan in good standing.

[88] Therefore, the first part of the test is met for the records outlined in paragraph [80].

2. Does the communication entail the seeking or giving of legal advice?

[89] In the March 14, 2025 submission, the SRC explained:

The communications in the Redacted Portions entail the seeking and giving of legal advice. The email communications in the Redacted Portions relate to SRC seeking legal advice by asking MLTA and the Ministry for their advice and guidance with respect to, among other things, the Investigation and related changes to SRC's Board and executive.

[90] "Legal advice" means a legal opinion about a legal issue, and a recommended course of action, based on legal considerations, regarding a matter with legal implications.³² The privilege applies not only to the records that actually give the legal advice but also to those that seek it and that provide factual information relative to which the advice is sought.

[91] In terms of the attachments, in its submission dated March 14, 2025, the SRC advised:

Similar to the OIPC's recent findings in *Review Report 099-2024*, the attachments to the identified communications with SRC's legal counsel in the Redacted Portions contain information about the identification, investigation and analysis of the source of the applicable legal risk(s) that SRC is seeking legal advice on.

³² See OIPC [Review Report 191-2023](#) at paragraph [40].

- [92] This office has historically established that background information can be included within the definition of “the giving of legal advice”, because it forms the factual basis for the communication between a solicitor and the client. Not all communications between a lawyer and a client are privileged. For example, provision of purely business advice by in-house counsel or purely social interactions between counsel and their clients will not constitute privileged communications.³³ But that is simply not the case here.
- [93] In the case of pages 6 and 7, noted in the table at paragraph [80], the email message, withheld in part, outlines the sender’s intentions to receive and apply guidance from lawyers at MLT Aikins and clearly references the legal advice given.
- [94] In the case of page 49, the email message, withheld in full, was forwarded from the SRC Executive President and CEO to lawyers at the law firm MLT Aikins in order to provide contextual information about ongoing governance issue.
- [95] In the case of pages 54 to 58, the email attachments, withheld in full, appear to have been attached to the forwarded email message on page 49. With regards to attachments and solicitor-client privilege, this office has previously found: ³⁴

The privilege does not necessarily apply to attachments to documents (e.g., attachments to emails) even those attached to genuine legal advice. On the other hand, an attachment that is an integral part of a legal opinion in the covering email or document could be privileged. For example, if the attachment would provide some basis for a reader to determine some or all of the opinion or advice. The party claiming privilege over an attachment must provide some basis for the claim. The point is that it is the content of the communication and who is communicating, not the form of the communication that determines privilege and confidentiality.

[Emphasis added]

³³ See OIPC [Review Report 026-2021](#) at paragraph [42].

³⁴ See OIPC [Review Report 129-2024](#) at paragraph [58].

[96] Again, it is relevant to consider whether the attachments on pages 54 to 58 fall within the continuum of legal advice as “background information” relevant to the advice requested from the solicitors by the client.

[97] OIPC has previously outlined examples of documents that are not actually a communication between a client and solicitor that may fall within the provision of legal advice, including:³⁵

- A discussion between two public officials on how to frame the question that is to be asked of the lawyer;
- Written communications between officials or employees of a public body, in which they quote or discuss the legal advice given by the public body’s solicitor;
- Communications discussing the application of legal advice given by a solicitor;
- An employee’s notes regarding a solicitor’s legal advice, and comments on that advice;
- Notes “to file” in which legal advice is quoted or discussed; and
- Solicitors’ briefing notes and working papers that are directly related to the seeking or giving of legal advice.

[98] Subsequently, in various reports, this office has found that some records prepared for the purposes of communicating ongoing legal advice fall within the continuum of solicitor-client privilege. For example, former Saskatchewan Information and Privacy Commissioner Kruzeniski, Q.C., found that four email attachments fell within the continuum of solicitor-client privilege.³⁶ Clearly, email attachments *can* be subject to solicitor-client privilege. However, in this case, we must ask whether these particular attachments fall within the scope of the provision of legal privilege.

³⁵ See OIPC [Review Report 381-2019](#) at paragraph [57].

³⁶ *Ibid*, at paragraphs [54] to [61].

[99] It is helpful to consider the words of the Federal Court of Appeal when discussing the nature and scope of a legal opinion within the continuum of the informational context:³⁷

[26] All communications between a solicitor and a client directly related to the seeking, formulating or giving of legal advice are privileged, along with communications within the continuum in which the solicitor tenders advice. See *Buffalo v. Canada*, [1995] 2 F.C. 762 (Fed. C.A.) at paragraph 8.

[27] Part of the continuum protected by privilege includes "matters great and small at various stages...includ[ing] advice as to what should prudently and sensibly be done in the relevant legal context" and other matters "directly related to the performance by the solicitor of his professional duty as legal advisor to the client." See *Balabel v. Air-India*, [1988] 2 W.L.R. 1036 (Eng. C.A.) at page 1046 *per* Taylor L.J.; *Three Rivers DC v. Bank of England (Disclosure) (No.4)*, [2004] UKHL 48 (U.K. H.L.) at paragraph 111.

[28] In determining where the protected continuum ends, one good question is whether a communication forms "part of that necessary exchange of information of which the object is the giving of legal advice": *Balabel*, *supra* at page 1048. If so, it is within the protected continuum. Put another way, does the disclosure of the communication have the potential to undercut the purpose behind the privilege — namely, the need for solicitors and their clients to freely and candidly exchange information and advice so that clients can know their true rights and obligations and act upon them?

[100] Similarly, in *The Blood Tribe v. Canada (Attorney General)* (2010), the Court of Appeal of Alberta determined that documents which do not actually contain legal advice, but which are made in confidence as part of the necessary exchange of information between the solicitor and client for the ultimate objective of the provision of advice, may be considered within the continuum of the provision of legal advice.³⁸

[101] The email attachments at pages 54 to 58, noted in the table at paragraph [80], appear to have been forwarded by the client to solicitors in an effort to provide factual "background information" upon which legal advice could be based. Factual background information

³⁷ *Canada (Information Commissioner) v Canada (Minister of Public Safety and Emergency Preparedness)*, 2013 FCA 104 at paragraphs [26] to [28].

³⁸ *The Blood Tribe v. Canada (Attorney General)*, 2010 ABCA 112 at paragraph [26]. Application for leave to appeal to the Supreme Court of Canada dismissed, 2013 CanLII 1179 (SCC).

necessary to seek and provide legal advice render the attachments well within the continuum of solicitor-client privilege.

[102] Therefore, the second part of the test is met for the records noted in the table at paragraph [80].

3. Did the parties intend for the communication to be treated confidentially?

[103] In the submission, the SRC further explained:

... Even where the Redacted Portions do not contain an explicit label or marker of privilege or confidentiality, the nature of the records themselves implies confidentiality. The Redacted Portions contain highly sensitive information being provided to legal counsel in relation to the Investigation and other legal matters. ...

[104] There must be an expectation on the part of the public body that the communication will be confidential. Not every aspect of relations between a lawyer and a client is necessarily confidential. Conduct which is inconsistent with an expectation of confidentiality can constitute a waiver of privilege. Confidentiality is the *sine qua non* of privilege. Without confidentiality, there can be no privilege; when confidentiality ends, so too should the privilege.³⁹

[105] On the face of the records noted in the table at paragraph [80], this office is satisfied that the email correspondence (and the associated attachments) between the SRC Executive team members and lawyers from MLT Aikins and Justice were intended to be kept confidential. We make this conclusion on the basis of the substance of the communications. We further note that the correspondence was treated as confidential internally and the number of recipients were purposely limited.

[106] Therefore, the third and final part of the test is met for the records outlined in the table at paragraph [80].

³⁹ *Blank v Canada (Minister of Justice)*, [2006] 2 SCR 319 at paragraph [32].

[107] As such, there is a finding that the SRC properly applied section 22(a) of *FOIP* to the records noted in the table at paragraph [80]. Based on this finding, there will be a recommendation that the SRC continue to withhold these records pursuant to section 22(a) of *FOIP*. As it was found that the SRC properly applied section 22(a) of *FOIP* to these records, there is no need to consider the application of section 22(c) of *FOIP*.

6. Is there a public interest in dissemination of this material?

[108] In *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*,⁴⁰ the Supreme Court of Canada explained the importance of the public interest in the application of a discretionary exemption. That case focused on the discretionary exemptions provided for in the Ontario privacy legislation dealing with section 14(2) of *Freedom of Information and Protection of Privacy Act (FIPPA)*⁴¹ (law enforcement investigations) and section 19 of *FIPPA* (solicitor/client privilege). In that case, the Supreme Court ruled that section 23 of *FIPPA*, the “public interest override” section, did not specifically mandate a further consideration of the public interest in sections 14(2) and 19 of *FIPPA* because both sections adequately provided for a unilateral consideration by a government head of the public interest by virtue of the very nature of the exemption itself. In other words, it is accepted that in making the decision whether to apply the exemption, the government head will have taken into consideration the public interest.

[109] The Court explained that when a government head makes a decision to apply a discretionary exemption, a two-fold consideration has gone before. First, the head must determine whether the exemption applies. If it does, the head must go on to ask whether, having regard to all relevant interests, such as the public interest, disclosure should be ordered.⁴²

⁴⁰ *Ontario (Public Safety and Security) v Criminal Lawyers' Association*, [2010] 1 SCR 815.

⁴¹ *Freedom of Information and Protection of Privacy Act*, RSO 1990, c. F.31, as amended (*FIPPA*).

⁴² *Supra*, footnote 40 at paragraphs [66] and [67].

[110] The Supreme Court also explained that a provincial privacy commissioner has a “residual discretion” to consider all relevant matters and to review, if necessary, the exercise of discretion on the part of the head:⁴³

[71] The Commissioner may quash the decision not to disclose and return the matter for reconsideration where: the decision was made in bad faith or for an improper purpose; the decision took into account irrelevant considerations; or the decision failed to take into account relevant considerations

[111] The circumstances surrounding the matters that form the basis of this access to information request have been the subject of some public focus and discussion. Media coverage has documented the Applicant’s concern that a review of the matter was conducted in hushed conditions and that an internal review ultimately dismissed concerns with respect to the SRC leadership and governance. The Applicant makes concerning allegations. On the other hand, the SRC has properly withheld information pursuant to the consultation/deliberations privilege as well as solicitor-client privilege. We cannot say that the SRC has applied these exemptions in bad faith or for an improper purpose. We have no evidence to the contrary other than the Applicant’s allegations. We also have no evidence that the SRC has taken into account irrelevant considerations or that it has failed to take into account relevant considerations in the strict application of the exemptions in this matter.

[112] Considering that solicitor-client privilege is a “near absolute” privilege, I cannot recommend that the SRC reconsider its discretion with respect to the public interest in the release of the records noted at paragraph [80].

[113] Yet, because the media attention has been profuse and because of the concerning nature of the Applicant’s allegations in connection with this matter, there will be a recommendation that the SRC reconsider its exercise of discretion *with respect to the public interest* in releasing the substantive material where it was found the SRC properly applied section 17(1)(b)(i) of *FOIP*. One of the main purposes of the privacy legislation in Saskatchewan

⁴³ *Ibid*, at paragraph [71]. That case arose out of Ontario, so the instruction was aimed specifically at the Ontario Information and Privacy Commissioner. Of course, this guidance applies across Canada by nature of the fact that it was delivered by the top court in the land and with respect to Ontario provisions that have equivalents in the privacy legislation of each province.

is to ensure transparency and to shine a light upon matters of public interest so the debate can be grounded in the facts. This recommendation applies to the substance of the records listed in paragraph [61] above.

7. Did the SRC conduct a reasonable search for records?

[114] Section 5.1(1) of *FOIP* requires a government institution to respond to an applicant's access to information request openly, accurately and completely. This means that a government institution should make reasonable efforts to not only identify and seek out records responsive to an applicant's access to information request, but to explain the steps in the process.⁴⁴

[115] In this phase of the analysis, we review whether the SRC conducted a reasonable search for records. The threshold of "reasonableness" is met when the government institution expends a level of effort expected of any fair, sensible person searching areas where records are likely to be stored. A government institution may resort to the following avenues in its effort to search for records:

- For personal information requests – explain how the individual who is the subject of the personal information is involved with the government institution (i.e., client, employee, former employee, etc.) and why certain departments/divisions/branches were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and explain how the employee(s) is experienced in the subject matter.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.
- Describe how records are classified within the records management system. For example, are the records classified by alphabet, year, function, subject.

⁴⁴ See OIPC [Review Report 331-2023](#) at paragraph [17].

- Consider providing a copy of the organization's record schedule and screen shots of the electronic directory (folders & subfolders).
- If the record has been destroyed, provide copies of record schedules and/or destruction certificates.
- Explain whether records stored off-site were searched and if not, explain why.
- Explain whether records that are in the government institution's control but also in the possession of a third party were searched and how. Third parties in this instance may include: a contractor or an information management service provider.
- Explain how a search of mobile electronic devices was conducted (i.e., laptops, smart phones, cell phones, tablets) and if not, why.
- Explain which folders within the records management system were searched and how these folders link back to the subject matter. For electronic folders – indicate what key terms were used to search if applicable.
- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee's search.
- Consider having the employee that is searching provide an affidavit to support the position that no record exists or to support the details provided.⁴⁵

[116] The Applicant asserted that records were missing from the access request results. The following list represents the Applicant's assertions as described in the submission received by this office:

What does the Applicant believe was not provided?	Why does the Applicant believe the record exists?
An email sent by the SRC President and CEO to a staff member of Executive Council, and any potential response to	In an early representation of search efforts, the SRC did not include the Executive Council staff member's name in that documentation. There should be a reply from

⁴⁵ The above list is meant to be a guide. Each case will require different search strategies and details depending on the records requested.

that email that, should have been captured in the search effort.	that Executive Council staff member to the SRC President and CEO's December 15, 2021 email.
Correspondence between the SRC and the current SRC Board Chair and former SRC Board Vice Chair regarding their appointments to the SRC Board.	These individuals would need to be aware of the developments surrounding changes to the SRC Board prior to their being appointed to the SRC Board.
Correspondence between the SRC Executive team, the SRC Board, and the Minister responsible for the SRC regarding revisions to a January board meeting agenda.	The correspondence should have been from on or around January 18 or 19, 2022.
Correspondence between an Executive Council staff member and an SRC Vice-President authorizing an amendment to an <i>Order in Council</i> .	The SRC Vice President did not report to the Executive Council staff member, and there needed to be authorization and instruction in order to facilitate an amendment to an <i>Order in Council</i> .
Evidence of an Executive Council staff member forwarding to the SRC President and CEO a letter from the Applicant to the Minister responsible for the SRC.	The letter was emailed to the Executive Council staff member for the Minister and, due to its contents, likely would have been forwarded on to the SRC President and CEO.
Evidence of an Executive Council staff member forwarding a letter from the Applicant to the Deputy Minister of Justice.	A reference to the letter in a January 30, 2022 email from the Executive Council staff member implied that a letter was shared by that staff member with the SRC President and CEO, who then forwarded it to the Deputy Minister of Justice.
A final report on the SRC leadership and governance, and associated documents.	The Minister responsible for the SRC sent the Applicant a letter dated January 21, 2022, wherein it was communicated that a formal review addressing the SRC leadership and governance would be commenced.

[117] In the submission, SRC described the search effort that was conducted. The search effort involved a keyword, e-discovery search of the relevant SRC databases involving the parties one would expect and the relevant dates as circumscribed by the access to information request. The affidavit from the SRC is marked as confidential and we refrain from further

comment. A review of the affidavit's contents allows for a conclusion that the search was considered and encompassing. The affidavit also warrants that the search included the one-on-one questioning of all possible individuals involved in the matter. The final conclusion can only be that the records, as alleged by the Applicant to be missing, are either:

- (i) not responsive to the original request,
- (ii) withheld in their entirety based on the exemptions as applied, or
- (iii) simply do not exist.

[118] As such, there is a finding that the SRC substantiated the conduct of a reasonable search for records. There will be a recommendation that the SRC take no further action regarding the search for records.

IV FINDINGS

[119] OIPC has jurisdiction to conduct this review.

[120] The SRC properly considered as the pages outlined at paragraph [15] as non-responsive to the Applicant's access to information request.

[121] The SRC properly applied section 29(1) of *FOIP* to some, but not all, redacted information noted in the tables at paragraphs [25], [31], [38], [42], [46] and [55].

[122] The SRC did not meet the burden of proof in demonstrating that section 17(1)(b)(i) of *FOIP* applies to the headers, footers and subject lines of emails noted in the table at paragraph [61].

[123] The SRC properly applied section 17(1)(b)(i) of *FOIP* to the redacted information noted in the table at paragraph [61], with the exception of the headers, footers, and subject lines of emails.

[124] The SRC properly applied section 22(a) of *FOIP* to the records noted at paragraph [80].

[125] The SRC conducted a reasonable search for records.

V RECOMMENDATIONS

[126] I recommend that the SRC continue to withhold pages 21 to 29, 236 and 237 as non-responsive to the Applicant's access to information request.

[127] I recommend that, within 30 days of the issuance of this Report, the SRC release to the Applicant the information to which it was found the SRC did not properly apply section 29(1) of *FOIP*:

- Names, job titles, years of service, and dates of initial appointment, re-appointment and cancellation of appointment of SRC Board members redacted from the records noted in the table at paragraph [25] above;
- Home constituency information in the *Agency Data Update Forms* redacted from the records noted in the table at paragraph [31];
- Remuneration information redacted from the records noted in the table at paragraph [46];
- Opinion information about the Applicant as outlined at paragraph [60].

[128] I recommend that the SRC continue to withhold the information to which it was found the SRC properly applied section 29(1) of *FOIP*:

- Home addresses redacted from the records noted in the table at paragraph [31];
- Personal email addresses redacted from the records noted in the table at paragraph [38];
- Gender identities and pronouns redacted from the records noted in the table at paragraph [42];
- Opinion information of an SRC Executive team member as outlined at paragraph [60].

[129] Even though the SRC has properly applied the exemption in section 17(1)(b)(i) of *FOIP* to the information in the table at paragraph [61], I recommend that the SRC reconsider its exercise of discretion with respect to the public interest in releasing this material.

[130] I recommend that the SRC release the headers, footers and subject lines of the emails of the information noted in the table at paragraph [61] within 30 days of the release of this report.

[131] I recommend that the SRC continue to withhold the records noted in the table at paragraph [80] pursuant to section 22(a) of *FOIP*.

[132] I recommend that the SRC take no further action regarding the search for records.

Dated at Regina, in the Province of Saskatchewan, this 31st day of October, 2025.

Grace Hession David
Saskatchewan Information and Privacy Commissioner