

A GUIDE TO SUBMISSIONS

Increasing your chances of success



Office of the
Saskatchewan Information
and Privacy Commissioner

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Introduction

Applicants, public bodies/trustees, and third parties have expected the Commissioner's office to be consistent and to let others know what our expectations are when engaged in a review. With that in mind, the Commissioner's office has developed a consistent format for reports, posted those reports on its website, developed the [Guide to FOIP](#), [Guide to LA FOIP](#), [Guide to HIPA](#) and developed [The Rules of Procedure](#). A further step in that direction is this [Guide to Submissions](#).

If you are an applicant, you do not need to read the entire guide. You should read; [I. Preliminaries](#), [II. If you are the Applicant](#), and [Appendix A: Template for Applicant](#).

Most public bodies/trustees provide the Commissioner's office with a submission when we are undertaking a review of a request for information or correction. Those submissions have not taken on a consistent form. This guide attempts to suggest a template that can be used to make a submission and provide some helpful hints in how to improve your chances of success. Public bodies/trustees should read; [I. Preliminaries](#), [III. If you are a Public Body/Trustee](#), and [Appendix B: Template for Public Body/Trustee](#).

If you are a third party, you do not need to read the entire guide. You should read; [I. Preliminaries](#), [IV. If you are the Third Party](#), and [Appendix C: Template for Third Parties](#).

The Legislation

The Freedom of Information and Protection of Privacy Act (FOIP) outlines the general approach the Commissioner must follow in doing a review of an access request. FOIP provides as follows:

Conduct of review

53(2) The:

- (a) person who applies for a review;
- (b) third party or applicant who is entitled to notice pursuant to section 52; and
- (c) head whose decision is the subject of a review;

are entitled to make representations to the commissioner in the course of the review.

Similar sections are found in section 42 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) and section 45 of *The Health Information Protection Act* (HIPA).

In a review, parties are free to make representations. In normal discussion, these have been referred to as "submissions". Normally parties make their representation in writing, however parties are free to request an oral submission. There is also no requirement that a submission be provided. However, not providing one impacts the burden of proof.

I. BURDEN OF PROOF

FOIP provides:

Burden of proof

61 In any proceeding pursuant to this Act, the burden of establishing that access to the record applied for may or must be refused or granted is on the head concerned.

Similar sections are found in section 51 of LA FOIP and section 47 of HIPA.

It is the obligation of the head or delegate of the public body/trustee to make their case as to why access should be refused.

The purpose of the submission is to inform the Commissioner's office about the main issues of the case and to persuade the Commissioner's office of the correctness of the public bodies' or trustees' position. Evidence here refers to information or material that establishes fact upon which the Commissioner will base his decision. The amount or type of evidence required in order for a party to meet its burden of proof will vary dependent on the particular record, facts, issues and circumstances. If a public body/trustee fails to meet the burden of proof, the Commissioner will recommend the release of the record at issue.

When it is said that a party has the "burden of proof", what is meant is that one party has a duty in law first to bring forward evidence that a particular fact or situation exists, and then to persuade the Commissioner that the evidence meets the necessary standard of proof.

For example, if a public body applies subsection 19(1)(a) of FOIP to refuse access to certain records, it falls to the public body to bring forward some evidence that disclosure could reasonably be expected to disclose a trade secret. If the public body is able to convince the Commissioner of this, the public body will have met the burden of proof.

The burden is not on the applicant to establish that an exemption does not apply. The burden is on the public body/trustee. This means that it is not enough for a public body/trustee to write the Commissioner and simply say "*access is denied because of section 19* [or some other section]", rather it is up to the public body/trustee to 'make the case' that a particular exemption(s) applies. That means presenting reasons why the exemption is appropriate for the

portion of the record that has been withheld. However, in certain circumstances, the burden may shift to the applicant (e.g. proving financial hardship when the applicant requests a fee waiver).

The Commissioner will decide what evidence to rely on and how much weight to give that evidence. To be successful, the party will be required to prove certain facts and issues “on a balance of probabilities” or “on a preponderance of evidence.” A party will have proven its case on a “balance of probabilities” if the Commissioner is able to say: “*I think it more likely, or more probable, than not.*” This means that the Commissioner has considered and weighed the evidence presented by both parties and the Commissioner is convinced by the persuasiveness and/or accuracy of one party’s evidence over the other’s.

II. STATUTORY INTERPRETATION

In Saskatchewan, the Commissioner is obliged to apply section 2-10 of [The Legislation Act](#) that provides:

Acts and regulations remedial

2-10(1) The words of an Act and regulations authorized pursuant to an Act are to be read in their entire context, and in their grammatical and ordinary sense, harmoniously with the scheme of the Act, the object of the Act and the intention of the Legislature.

(2) Every Act and regulation is to be construed as being remedial and is to be given the fair, large and liberal interpretation that best ensures the attainment of its objects.

The Rules of Procedure

The Commissioner has developed [The Rules of Procedure](#) to assist public bodies/trustees with understanding what the Commissioner’s expectations are. In terms of representations (submissions), see section 2-8. The similar rule under HIPA can be found at section 3-7.

Preparing the Index of Records

The Commissioner’s office will request the public body/trustee to prepare an Index of Records. [The Rules of Procedure](#) provide:

2-7 Index of Records

(1) The index of records provided by the public body/trustee shall include but is not limited to the following information:

- a record number or page number assigned by the public body/trustee;
- a general description of the record such as a letter, email, memo, note, agreement indicating who it was from, who it was sent to and the date;
- the number of pages in the record;
- the section or subsection numbers of the exemptions claimed for that record; and
- the status of the record, whether released to the applicant in part, full or withheld in full.

(2) The commissioner's office will provide a copy of the index of records to the applicant unless subsection 7(4) of FOIP or LA FOIP has been invoked or the commissioner's office determines not to release the index of records.

A sample of the Index of Records is contained in *The Rules of Procedure*, [Form A](#). The similar rule under HIPA can be found at section 3-6.

Prior to the public body/trustee preparing its submission, it is important that the public body/trustee first prepare the Index of Records. This provides the public body/trustee an opportunity to review the record and make decisions as to whether further records can be released to the applicant. If further records are released, that narrows the scope of the issue in dispute and allows the public body/trustee to focus its submission on only the outstanding issues.

With this in mind, the public body/trustee should not use the Index of Records to indicate its arguments or provide confidential information it does not want the applicant or third party to see.

Only after the Index of Records is prepared, should the public body/trustee begin its submission. It is good practice if the Index of Records is attached to the submission as an appendix and the parties refer to the record number, page number or redaction number in its submission as is referred to in the Index of Records.

Preparing the Submission

I. PRELIMINARIES

A. Determine your audience

Speakers or presenters, when talking about being persuasive, will always suggest that the first step is to identify your audience. In this case, a submission is being sent to the Commissioner's office. That is your audience.

When you want to be persuasive in your arguments to the Commissioner's office, understanding the role of the Commissioner is important in tailoring your arguments. The Commissioner's office is a neutral oversight body. The Commissioner is appointed by the Legislative Assembly and receives the mandate set out in FOIP, LA FOIP, and HIPA. The Commissioner's office, under the legislation, is required to review the facts, the record, the arguments from all parties and then to issue a report with findings and recommendations. The Commissioner's office has found that when dealing with other organizations, a cooperative approach really works. The Commissioner's office is not on the side of the applicant, third party or the public body/trustee. The Commissioner reviews the situation and makes findings and recommendations. If an applicant or third party is not satisfied with the outcome of a review, they can appeal to the Court of Queen's Bench.

Remember, the Commissioner's office will also be receiving arguments from the opposing parties in the case and, how persuasive a party's arguments are will influence the outcome of the case and you want yours to be most persuasive.

Stating that FOIP, LA FOIP or HIPA is wrong and should be ignored will not assist a party's position. This legislation was passed by the Legislative Assembly in 1992 (FOIP), 1993 (LA FOIP) and 2003 (HIPA) respectively. The Commissioner's office is required to interpret the legislation, so representations on particular interpretations of a section or subsection are extremely relevant. Citing Court of Queen's Bench for Saskatchewan or Saskatchewan Court of Appeal cases that offer some interpretation of FOIP, LA FOIP or HIPA, is very persuasive. Citing decisions of other Information and Privacy Commissioners in Canada on interpretation of a similar section may also be persuasive. Referring to cases from other countries or jurisdictions with different legislation is not.

B. Determine your purpose

Before starting to write, you need to think about the purpose for which you are preparing the submission. Generally, the goal would be to persuade the Commissioner to your point of view. If you are an applicant, your objective is to persuade the Commissioner, for example, that the requested records should be released, the fee is unreasonable or the fee should be waived. If you are a public body/trustee, your objective is to persuade the Commissioner that your decision not to release was correct. If you are a third party, your objective is to persuade the Commissioner that documents containing your third party information should not be released. The goal is to persuade a neutral body that your position is right and recommendations should be made accordingly.

C. Jurisdiction

The process begins when an applicant requests a review by the Commissioner. By taking such a step, the applicant has presumed the Commissioner has jurisdiction. Jurisdiction comes from the wording in FOIP, LA FOIP or HIPA. When the Commissioner's office receives a request for review, it does consider whether there is jurisdiction under one of the three statutes. A public body/trustee that has received a Notification of Review from the Commissioner's office may have the opinion that the Commissioner does not have jurisdiction to review the matter. If so, the public body/trustee will presumably wish to say so in its submission. In that case, the first heading in the submission should be addressing the jurisdictional issue. Court of Queen's Bench for Saskatchewan and Saskatchewan Court of Appeal decisions are relevant. Cases from other provinces or territories may be relevant if the legislation, section or subsection is similar to Saskatchewan's legislation. The practice of the Commissioner's office has been to consider the issue of jurisdiction and other issues in one report. The Commissioner's office has generally not issued a preliminary report dealing with jurisdiction only. Thus, after dealing with the jurisdiction issue, a submission should go on to deal with the other issues raised by the Commissioner's office in the Notification of Review (i.e. the other issues identified as the scope of the review). Again, the Commissioner will typically address all of the issues, including jurisdiction, in a single report.

D. Develop the submission outline

Before writing any document, it is a good practice to first sit back, reflect on the audience, the purpose, and decide an outline for the document. The same holds true for a submission. In particular, one should think about the conclusion and what final message or request will be given. Creating an outline also ensures that no particular item or important point will be missed. In Appendices [A](#), [B](#), and [C](#) templates are suggested which can be used as a starting point for the submission outline.

II. IF YOU ARE THE APPLICANT

Not many applicants provide a submission in the sense of a formal document, but an applicant is entitled to do so. When first requesting a review, many applicants explain their situation in an initial email or a letter. They may decide that they have explained their point of view sufficiently and do not wish to explain it further. That is their right and their decision.

After an applicant receives a copy of the Index of Records, it is recommended that the applicant carefully review that index. If there are records referred to in the index that the applicant is not interested in, it is advisable that the applicant indicate that to the Commissioner's office and the public body/trustee. An applicant that reduces the number of records requested, even at this stage, is helpful in reducing the issues for the Commissioner and for the public body/trustee. A reasoned approach here may result in the public body/trustee revisiting the access request and determining more records can be released.

After reviewing the Index of Records, as indicated above, the applicant can prepare a representation (submission). That submission should:

- use headings where applicable;
- refer to each record or page number as used in the Index of Records;
- respond to any specific points in the public bodies'/trustees' section 7 or section 36 letter and set out each point as a heading;
- refer to specific sections in FOIP, LA FOIP or HIPA, as appropriate;
- refer to any correspondence with the public body/trustee and attach it to the submission; and/or
- attach any other material the applicant feels is relevant.

In most cases, as applicant, you will receive the Index of Records. You need to review the Index of Records and first determine whether there are some records you are not interested in.

If you did not receive an Index of Records, the same format could still apply except for references to record or page numbers from the index.

A. Before writing, consider the outline of your submission

Think about the major points you wish to make and then reduce those into your outline. Appendix A is a template that can be used for your outline. Modify it as you think appropriate.

B. Solicitor-client privilege

When you review the Index of Records, you may see the public body claiming subsection 22(a) of FOIP (subsection 21(a) of LA FOIP). This indicates the public body is claiming solicitor-client privilege or litigation privilege. If correspondence is between the public body and a solicitor, it is likely that the privilege may apply. If privilege applies, you can expect that you may not receive that type of correspondence. So, unless you can provide some information that shows the public body has made the correspondence public or waived privilege, you may not be successful. [Chapter 4](#) of the [Guide to FOIP](#) and [Chapter 4](#) of the [Guide to LA FOIP](#) provides the test that must be met by the public body if claiming subsection 22(a) of FOIP (subsection 21(a) of LA FOIP).

C. Things you will be required to prove

As an applicant, if you requested a review, there are certain grounds (outlined below) where you will be required to provide some facts in order to show that your request for review should succeed. Several examples are outlined below.

i. An applicant is not satisfied that a reasonable fee was estimated pursuant to subsection 9(2) of FOIP or LA FOIP (subsection 49(1)(a.1) of FOIP or subsection 38(1)(a.1) of LA FOIP and subsection 42(1)(c) of HIPA).

If the applicant is requesting a review on the grounds that the public body's estimated fee was not reasonable, the applicant needs to provide some information that the fee was not calculated properly. The applicant should review the resource [Steps to Charging Fees](#) and [Fee Estimate Quick Calculation Guide](#). For example, the applicant would need to show that the estimate of the number of records is too large. The applicant would have to show that they are aware of much fewer records. Applicants should also see section 6 of the FOIP Regulations and section 5 of the LA FOIP Regulations.

ii. An applicant believes that all or part of the fee estimated should be waived pursuant to subsections 9(5) of FOIP or LA FOIP (subsection 49(1)(a.2) of FOIP or subsection 38(1)(a.2) of LA FOIP).

The FOIP Regulations provide:

Waiver of fees

9(1) For the purposes of subsection 9(5) of the Act, the following circumstances are prescribed as circumstances in which a head may waive payment of fees:

(a) if payment of the prescribed fees will cause a substantial financial hardship for the applicant and, in the opinion of the head, giving access to the record is in the public interest;

(b) if the application involves the personal information of the applicant;

(c) if the prescribed fee or actual cost for the service is \$100 or less.

(2) For the purposes of clause 9(1)(a), substantial financial hardship includes circumstances in which the applicant:

(a) is receiving assistance pursuant to *The Saskatchewan Assistance Act* as an individual or as part of a family unit;

(b) is receiving assistance pursuant to *The Training Allowance Regulations*; or

(c) is receiving legal assistance or representation from any of the following organizations, including any of the same organizations operating from time to time under another name:

(i) The Saskatchewan Legal Aid Commission;

(ii) Pro Bono Law Saskatchewan;

(iii) Community Legal Assistance Services for Saskatoon Inner City Inc. (CLASSIC).

There is a similar provision in section 8 of LA FOIP Regulations.

The applicant will have to show that they provided information to the public body/trustee on their financial position and will have to provide the Commissioner with similar information. Documents such as tax returns, confirmation of social services payments, and other financial information that shows the applicant receives limited income or no income.

iii. An individual believes that his or her personal information has not been collected, used or disclosed in accordance with this Act or the regulations (subsection 49(1)(a.4) of FOIP or subsection 38(1)(a.4) of LA FOIP or subsection 42(1)(c) of HIPA).

The applicant needs to provide some facts showing that too much information was collected or information was improperly disclosed. A mere suspicion is not enough. Providing some documents such as an email or a letter or a memo, is very helpful.

iv. A head fails to respond to an application for access to a record within the required time (subsection 49(1)(b) of FOIP, subsection 38(1)(b) of LA FOIP or subsection 42(1) of HIPA).

The applicant can assist by providing the date the access request was made and providing documents like a post office receipt, a written acknowledgement from the public body/trustee

(letter or email), in particular providing a copy of the section 7 letter sent by the public body/trustee. In fact, copies of all communications between the public body/trustee and the applicant assist in establishing the relevant dates.

v. An applicant requests a correction of personal information pursuant to clause 32(1)(a) and the correction is not made (subsection 49(1)(c) of FOIP or subsection 38(1)(c) of LA FOIP or subsection 42(1)(b) of HIPA).

The applicant needs to provide the document where the request for correction was made and the written response of the public body/trustee refusing to make the correction. In addition, the applicant needs to:

- identify what personal information is an error or omission;
- identify what the correction should be on each record; and
- provide evidence to support the correction (e.g. documents to show correct birth date).

The proposed correction cannot be a substitution of opinion.

D. Refer to the Guide to FOIP, Guide to LAFOIP, or Guide to HIPA

The Commissioner's office has developed the [Guide to FOIP](#) (for government institutions), [Guide to LA FOIP](#) (for local authorities), and [Guide to HIPA](#) (for trustees). Before beginning to write the submission, an applicant should read relevant portions of the appropriate guide. This will give the applicant an idea on what the Commissioner will be looking for when the submission is reviewed. One does not have to agree with the tests discussed but needs to know as a starting point what the Commissioner is expecting to receive representations on.

E. Adapt the attached template

[Appendix A](#), to this Guide, is a template that the applicant can use to make their submission.

The applicant should adapt the template to meet the needs of the applicant. The template is intended to be a good starting point.

III. IF YOU ARE THE PUBLIC BODY/TRUSTEE

After reviewing the Index of Records, the public body/trustee should first consider whether any additional records or portion of records can be released. Releasing records reduces the number of records at issue and thus, the work and effort that needs to go into the submission. If the public body/trustee decides to release additional records, inform the IPC right away and copy the IPC on the cover letter to the applicant when doing so.

When you finish the draft of your submission, ensure that your submission matches your Index of Records and the record itself (i.e. page numbers and exemptions relied on).

These are all effective means of putting your arguments forward, which in turn is more persuasive. For more assistance on preparing your submission, Index of Records and/or the record itself, you can refer to the Information and Privacy Commissioner's (IPC) resource, [What to Expect During a Review with the IPC: A Resource for Public Bodies and Trustees](#).

A. Government institution/local authority/trustee

If you are a government institution, FOIP applies to you and the references should be to FOIP.

If you are a local authority, LA FOIP applies to you.

If you are a trustee which includes government institutions, HIPA applies to you.

B. Issues

In many reviews, the issue is access to the records and the claiming of exemptions that is dealt with extensively below. There can be other issues that will have to be dealt with in the submission. These include issues such as:

- the records requested are public documents and are or will be published;
- the records requested do not exist;
- the public body/trustee does not have possession/custody or control of the records requested;
- the fees estimated are not reasonable;
- the transfer of the access to information request was not authorized;
- the correction request was not granted;
- no response was provide within the statutory deadline;

- application was deemed abandoned;
- issues with time extension;
- issues with manner of providing access;
- the public body/trustee should have considered waiving the fees;
- the search was inadequate; and/or
- the public body/trustee did not meet its duty to assist.

The Notification of Review from the Commissioner's office will generally outline the issues the public body/trustee needs to address. If one of the above is the key issue of the review, then the submission should address that issue and provide evidence and arguments to show that the public body/trustee acted properly or reasonably.

C. Analyze the exemptions you want to claim

A public body's/trustee's first official response is the letter issued under section 7 of FOIP or LA FOIP or section 36 of HIPA. The author of the submission needs to analyze the exemptions claimed in the section 7/36 letter and decide whether there is a justification for claiming those exemptions. If exemptions were claimed that now, after analyses do not stand, then the author should consider dropping those exemptions and indicate so in the submission.

If an exemption(s) is dropped through the course of a review resulting in more information being released to the applicant, the public body/trustee should immediately release that information and not wait until the conclusion of the review to do so. There are circumstances where additional information has been released to the applicant during the course of a review resulting in the applicant being satisfied and the review being resolved informally without a report.

If the author determines important exemptions were missed in the section 7/36 letter, then those exemptions should be included in the submission and the author of the submission should notify the applicant that additional exemptions are being claimed.

If your section 7/36 letter has claimed multiple exemptions to a record or a portion of a record, a public body/trustee should seriously focus on the exemptions where it has the strongest arguments and evidence for success. Remember the burden of proving that the exemption applies rests with the public body/trustee. Making arguments in a submission on exemptions that very doubtfully apply does not help your case. It wastes your time and the Commissioner's office's time. In addition, for discretionary exemptions, it may leave the Commissioner's office wondering if the exercise of discretion was exercised appropriately or if section 8 of FOIP and LA

FOIP or subsection 38(2) of HIPA were fully complied with. Remember, even where a discretionary exemption may apply, the head should still exercise discretion and consider releasing the record anyway.

Once you settle on the exemptions that you will continue to claim, organize your submission with each of the exemptions as a heading (e.g. subsection 17(1)(c)). Under each exemption heading, organize your submission into subheadings (e.g. using a heading such as record #1, page #1, redaction #1 or briefing note #1). Then, you might consider quoting the tests, elements or questions set out in the [Guide to FOIP](#) (for government institutions), [Guide to LA FOIP](#) (for local authorities), and [Guide to HIPA](#) (for trustees). This way, you put forward the exemption claimed, each record that you are claiming the exemption on, and the elements or the tests referred to in the appropriate Guide.

A blanket statement such as “we submit subsection 17(1)(c) applies” is not helpful without providing evidence that supports the exemption and reasons why you believe that particular exemption applies to each portion of the record to which it is applied. Avoid just stating “yes” to the test questions in the Guide. Make sure you explain sufficiently how the information meets the test threshold (e.g. explain the ‘harm’ that you foresee in detail for harms based exemptions). The burden of proving your point is on the public body/trustee; section 61 of FOIP, section 51 of LA FOIP, and section 47 of HIPA. Failure to give evidence or provide reasons will result in the Commissioner finding that the public body/trustee has not met the burden of proof and recommend release of the records.

Further, if the author will be claiming multiple exemptions on the same record, page or paragraph, it is necessary that the author be specific regarding each exemption claimed, indicating the exact portion of the text that the exemption applies to.

In summary, your submission should have the following four things for each exemption relied on:

1. List the exemption that has been applied;
2. List the page numbers that it applies to (group pages if the records are similar);
3. Reproduce the test from the appropriate Guide for that exemption; and
4. Layout your arguments for each part of the test (make sure to tie it to the information in the record).

Finally, in planning your submission, put yourself in the shoes of the Commissioner’s office, and ask: “If I had to make this decision, what would I need to make it?” This will help you focus on the key issues and anticipated questions the Commissioner’s office would likely ask.

You should know, after receipt of the submission, the Commissioner is reluctant to consider additional exemptions. After the public body/trustee receives the draft report, the Commissioner becomes even more reluctant to accept arguments on new exemptions.

D. Refer to the Index of Records

The Index of Records, as prepared, becomes the guide for the Commissioner's office and the public body/trustee. A well prepared Index of Records makes it easier to navigate through the multiple pages of the record. The greater number of records, it becomes more important for the public body/trustee and the Commissioner's office to closely follow the Index of Records. Thus, referring to record number, page number, or redaction number in the submission becomes extremely important.

E. Focus on the strongest arguments

As indicated above, organize your submission so that you put your strongest arguments first. Identifying your one or two very strong arguments is an important first step. A public body/trustee is most likely to succeed on the first or second argument. Public bodies have in the past claimed six or eight exemptions for a record. It is highly unlikely that all six or eight will apply. The shotgun approach to exemptions is usually not all that affective. Going for the strongest argument and putting it in your submission first, increases your chances of success.

F. Refer to the Guide to FOIP, Guide to LA FOIP, or Guide to HIPA

The Commissioner's office has developed the [Guide to FOIP](#) (for government institutions), [Guide to LA FOIP](#) (for local authorities), and [Guide to HIPA](#) (for trustees). Before beginning to write the submission, a public body/trustee should read relevant portions of the appropriate guide. This will give the public body/trustee an idea on what the Commissioner will be looking for when the submission is reviewed. One does not have to agree with the tests discussed but needs to know as a starting point what the Commissioner is expecting to receive representations on.

G. Gather your evidence

As a public body/trustee, you will have arguments under various sections of FOIP, LA FOIP or HIPA, but your case will be assisted by providing some supporting documentation in terms of other evidence such as letters, emails, and memos supporting your arguments. If negotiations are going on, provide the documents that show that negotiations are going on. If you expect negotiations in the future, provide some documents that support that you will be negotiating in

three months, six months or one year. Speculation that negotiations might be going on will not be sufficient.

If you are arguing that the records are confidential, provide some documents supporting your claim that the communication was confidential. You can refer to a clause in a contract, a paragraph in an email or a memo to the file indicating future conversations will be confidential. If historically similar communications in the past were confidential, provide proof of that.

Proving these things can either be shown by providing records or an affidavit of an employee of a public body/trustee. Public bodies/trustees should be aware that providing these examples does not mean the Commissioner will always find the communications were confidential but it will increase the chances he will. All factors pertinent and unique to each case are considered. Copies of original documentation is better evidence than a generalized statement offered later on.

H. Marshall your arguments

In thinking about your submission, you may wish to consider referring to other sources of information. You might consider referring to any of the following:

- Excerpts from relevant legislation or regulations that apply to the operations of the public body/trustee and that relate to the issues under review;
- Excerpts from policy manuals that set out practices or policies followed by the public body/trustee that relate to the issues under review;
- Relevant court decisions or past Reports of the Commissioner's office and/or Saskatchewan courts. The Commissioner's office publishes on its website the Reports and recommendations issued when it concludes a review of a decision of a public body/trustee; and/or
- Decisions made by the Information and Privacy Commissioners or courts in other jurisdictions that may be of assistance to the Commissioner's office in its consideration of the issues.

Each exemption under these Acts has certain requirements that must be satisfied. It is important for public bodies/trustees claiming an exemption(s) to address each component of these requirements. For every exemption claimed, consider the following:

- Have you clearly identified the record or parts of the record at issue?
- Have you identified the exemptions that apply to each part of the record, which has been withheld from disclosure?

- Have you reviewed previous reports by the Commissioner's office and relevant court decisions to determine how the exemption has been interpreted in the past?

Where an exemption is discretionary:

- Have you considered whether the public body/trustee should rely on this exemption in the particular circumstances?
- If so, have you explained the basis for the head's exercise of discretion?

Where an exemption requires proof that a particular consequence would result from disclosure of the record (i.e. threatens the safety, physical or mental health of an individual):

- Have you identified the consequences in detail?
- Have you provided detailed and convincing evidence establishing a reasonable expectation of harm contemplated by the particular exemption?

Where an exemption requires proof that a record was prepared for a particular purpose (i.e. cabinet confidence, solicitor client):

- Have you provided facts to support your claim?
- Have you identified the facts which apply to each component of the exemption?

Where proof is required that a record or 'information' was supplied or received implicitly or explicitly in confidence:

- Have you provided details of the circumstances in which the record or information was supplied or received?
- Have you provided evidence of the expectation of confidentiality and shown that this expectation was reasonable?

Where proof is required that information in a record is the type of information listed in the exemption or that it contains certain types of information (i.e. advice, recommendations, scientific, financial, or commercial information):

- Have you identified the particular type of information in the record?
- Have you provided reasons why the information fits into this category?

Where the personal information or personal health information exemption is claimed:

- Have you identified which information in the record constitutes personal information or personal health information, why it should be considered such, and to whom it relates?

- Have you considered whether the information is the requestor’s personal information or personal health information? If this is so, did you consider the specific provisions of the applicable Act granting access to one’s own personal information (section 31 of FOIP, section 30 of LA FOIP, and section 12 and 32 of HIPA)?
- Have you contacted the third party to see if there is any objection to the release of their information?

I. Consider whether an exemption applies to multiple records or pages

The author of the submission should determine if they can provide arguments under one heading for each exemption. Under each heading, the author can provide the record number or the page number to which it is applying the exemption and the arguments.

For example, if there 100 pages in the record, and it is applying subsection 16(1)(a) of LA FOIP to every 10th page, the submission could be as follows:

Subsection 16(1)(a)

Public Body XYZ applied subsection 16(1)(a) to portions of pages 10, 20, 30, 40, 50, 60, 70, 80, 90, and 100 as they relate to topic ABC.

J. Before writing, consider the outline of your submission

Below is an outline for a submission that can work. The outline can be structured to have a heading on exemptions claimed, a subheading of a record, page and a lower sub heading of the tests or questions (from the *Guide to FOIP*). For example, the headings may look like:

- A. Introduction
- B. Preliminary Matters
- C. Exemptions Claimed
 - 1. Decision to refuse release of records under subsection 17(1)(a) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Does the information qualify as advice, proposals, recommendations, analyses or policy options?
 - ii. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?
 - b. Records or pages 5-10 or Redactions 5-10

- i. Does the information qualify as advice, proposals, recommendations, analyses or policy options?
 - ii. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?
 - c. Records or pages ...
- 2. Decision to refuse release of records under subsection 17(1)(b) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Does the record contain consultations or deliberations?
 - ii. 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?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - i. Does the record contain consultations or deliberations?
 - iii. 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?
 - c. Records or pages ...
- 3. Decision to refuse release of records under subsection 17(1)(c) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Does the record contain positions, plans, procedures, criteria, instructions or considerations that relate to the negotiations?
 - ii. Were the positions, plans, procedures, criteria, instructions or considerations developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - i. Does the record contain positions, plans, procedures, criteria, instructions or considerations that relate to the negotiations?
 - ii. Were the positions, plans, procedures, criteria, instructions or considerations developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution?
 - A. Records or pages ...

In a simple case with one record and one exemption, this structured outline would not need to be as detailed. In a case with multiple records and multiple exemptions, public bodies/trustees are encouraged to consider this structure. Obviously public bodies/trustees will have to adapt the structure to the circumstances of the case.

K. Solicitor-client privilege

The Commissioner's office has established a process to consider a claim of solicitor-client privilege. See [The Rules of Procedure](#), Part 9. When considering claiming solicitor-client privilege, public bodies have three options when preparing records for review with the Commissioner's office:

1. Provide the documents to the Commissioner's office with a cover letter stating the public body/trustee is not waiving the privilege;
2. Provide the documents to the Commissioner's office with the portions severed where solicitor-client privilege is claimed; or
3. Provide the Commissioner's office with an affidavit with a schedule of records.

Prior to writing, the public body/trustee needs to decide how it will proceed in providing the record to the Commissioner. Once decided, this will impact how the submission is written. If the public body/trustee is providing the Commissioner with the documents, the public body/trustee can address the specific document numbers in making the submission. If the public body/trustee provides an affidavit, the public body/trustee can refer to the affidavit in the submission.

L. Adapt the attached template

[Appendix B](#), to this guide, is a template that the public body/trustee can use to make their submission. **The public body/trustee should adapt the template to meet the needs of the public body/trustee. The template is intended to be a good starting point.**

IV. IF YOU ARE A THIRD PARTY

If a head of a public body or trustee intends to release a record that affects a third party, the third party can request a review by the Commissioner pursuant to subsection 49(3) of FOIP (section 38 of LA FOIP and section 42 of HIPA).

The Commissioner's office has found that generally, third parties resist release of their information. Although this is common, third parties should examine section 19 of FOIP (section 18 of LA FOIP, section 38(1)(c) of HIPA) to determine whether they have grounds to oppose the release of the information.

If a third party is making a submission to the Commissioner, the third party has to present arguments surrounding section 19 of FOIP (section 18 of LA FOIP, section 38 of HIPA). Making submissions regarding other sections in FOIP, LA FOIP or HIPA will not be considered by the Commissioner's office because only the head of the public body can invoke other exemptions and make arguments about those exemptions. The third party has to present its arguments under section 19 of FOIP, section 18 of LA FOIP, or section 38 of HIPA. When the third party makes the submission, it must prove its points on the balance of probabilities, section 61 of FOIP (section 51 of LA FOIP, section 47 of HIPA).

The third party (who is actually the subject of the access to information request) might wish to do a submission on not releasing personal information, section 29 of FOIP (section 28 of LA FOIP, section 27 of HIPA). Generally, this does not apply to the name of an employee or business, work address, work telephone number, work email, working title, or signature of an employee who works for the third party. Depending on the context, this is generally known as work product or business card information.

A. Determine the records in dispute

The public body/trustee may be considering the release of multiple records. Some of those records will not impact the third party at all. The only records the third party can be concerned about are those that it provided to the public body/trustee and in some instances, the records that the public body/trustee provided to it. In some instances, records may have been created by the public body but contain information originally supplied by the third party.

B. Decide if you really care

A third party's first reaction might be that they do not want any information disclosed. The problem is the legislation does not allow that. It allows a specific exemption under section 19 of

FOIP (section 18 of LA FOIP, section 38 of HIPA). These sections override any clause in a contract. After consideration, a third party might decide that it might as well consent to the release of the information. Doing this assists the process for the public body/trustee and the Commissioner's office. Third parties should be aware that the terms of a contract for goods or services between a third party and public body are generally released.

C. Gather your evidence

As a third party, you will have arguments under section 19 of FOIP (section 18 of LA FOIP, section 38 of HIPA) but your case will be assisted by providing some backup in terms of other evidence, letters, emails, and memos supporting your arguments. If negotiations are going on, provide the documents that show that negotiations are going on. If you expect negotiations in the future, provide some documents that support that you will be negotiating in 3 months, 6 months, or one year. Speculation that negotiations might be going on will not be sufficient.

If you are arguing that the records are confidential, provide some documents supporting your claim that the communication was confidential. You can refer to a clause in a contract, a paragraph in an email or a memo to the file indicating future conversations will be confidential. If historically similar communications in the past were confidential, provide proof of that.

Proving these things can either be shown by providing records or an affidavit of an employee of the third party. Third parties should be aware that providing these examples does not mean the Commissioner will always find the communications were confidential but it will increase the chances he will. All factors pertinent and unique to each case are considered.

D. Refer to the Guide to FOIP, Guide to LA FOIP, or Guide to HIPA

The Commissioner's office has developed the [Guide to FOIP](#) (for government institutions), [Guide to LA FOIP](#) (for local authorities), and [Guide to HIPA](#) (for trustees). Before beginning to write a submission, a third party should read about section 19 of FOIP (section 18 of LA FOIP, section 38 of HIPA). This will give the third party an idea of what the Commissioner's office will be looking for when the submission is reviewed. One does not have to agree with the tests discussed but needs to know as a starting point what the Commissioner's office is expecting to receive representations on.

E. Marshall your arguments

After considering the points above, the third party should determine what its strongest arguments are for objecting to the release of the records pursuant to section 19 of FOIP (section

18 of LA FOIP, section 38 of HIPA). There is no need to present arguments on other exemptions in FOIP or LA FOIP except an argument on not releasing personal information under section 29 of FOIP (section 28 of LA FOIP). As noted earlier, only the head of the public body can invoke other exemptions.

F. Adapt the attached template

[Appendix C](#) to this Guide is a template that the third party can use to make their submission. **The third party should adapt the template to meet the needs of the third party** but must confine its arguments to section 19 of FOIP (section 18 of LA FOIP, section 38 of HIPA), or why their personal information should not be released. **The template is intended to be a good starting point.**

IV. STEPS AFTER THE SUBMISSION

A. Would a meeting be beneficial?

Most public bodies prepare a submission but do not ask for an opportunity to make oral representations. You can ask for an opportunity to meet with the Analyst, the Manager of Compliance, the Director of Compliance, or the Commissioner or all four. If you are going to meet and basically read your submission, there may not be much value in meeting. If there are things you wish to say that are not in your submission, than possibly a meeting will assist in advancing your cause. Your submission and your representations at a meeting are governed by sections 46 and 53 of FOIP (section 42 and 48 of LA FOIP, sections 45 and 54 of HIPA). This is not a “without prejudice” meeting and not a settlement meeting. At this point of the process, it is a meeting to make oral representations regarding your support of the claim for exemptions. After the oral meeting, you may be asked to reduce to writing the key points you have made. This is done so as to prevent the Commissioner’s office from misquoting you in the report.

B. Expect questions from the Commissioner’s office

Once you submit your submission, or at a requested meeting, staff of the Commissioner’s office may have questions. They will usually make the request by email and the questions may involve asking for more information or for the provision of documents.

C. You may get requests for evidence

After you submit your submission staff of the Commissioner’s office, in analyzing one of your arguments, may feel that more information is necessary to support a particular exemption. The staff may ask that you supply greater support (evidence or an affidavit) for a particular exemption. Keeping in mind that the burden of making the case is not on the Commissioner’s office.

D. Prepare for a draft report

After questions are asked and answered and documents are provided, the Analyst does their analysis and prepares a draft report. The analysis and draft report is reviewed with the Commissioner, the Director of Compliance, and the Manager of Compliance. That draft is then sent to the public body/trustee with a request that the public body/trustee point out any factual errors. The public body/trustee has had the chance to make a submission, have a meeting and answer questions. When the public body/trustee receives the draft, the Commissioner does not

expect a repeat of the arguments that were in the submission or made at the meeting. The Commissioner is interested in making sure the facts are correct.

E. Prepare for a final report

After a public body/trustee has given the Commissioner's office any corrections to factual errors, the Analyst will finalize the report. It is reviewed by the Commissioner, the Director of Compliance and the Manager of Compliance and is then forwarded to the parties.

Appendix A: Template for Applicants

Information and Privacy Commissioner

Submission by _____
[Applicant Name]

IPC File Number: _____

Date: _____

**The applicant should adapt this template to meet the needs of the applicant.*

1. Introduction

Optional, an opportunity to focus the Commissioner's office on the important issues.

2. Following legislated timelines

If you have raised a concern about delays or missing timelines, give the dates of your request and your reasons why you believe timelines were missed and attach all correspondence with public body/trustee. You may also wish to refer to or cite the [Guide to FOIP \(Chapter 3\)](#), [Guide to LA FOIP \(Chapter 3\)](#) or [Guide to HIPA](#).

3. Duty to assist

If you are saying the public body/trustee did not assist you, give the facts and the reasons why you believe the public body/trustee failed to assist you. For details on what duties are captured by the duty to assist provision see section 5.1 of FOIP and LA FOIP and section 35 of HIPA. You may also wish to refer to or cite the [Guide to FOIP \(Chapter 3\)](#), [Guide to LA FOIP \(Chapter 3\)](#) or [Guide to HIPA](#).

4. Reasons for releasing the record

If you object to the public body's' refusal to provide you with records, give your reasons why you believe the record exists or why you believe you are entitled to the records under FOIP, LA FOIP or

HIPA. You may wish to refer to the tests outlined in the [Guide to FOIP \(Chapter 4\)](#), [Guide to LA FOIP \(Chapter 4\)](#) or [Guide to HIPA](#) to support your arguments.

5. Records at issue

If since you requested a review by the Commissioner's office, you have received additional records or no longer are interested in receiving certain records listed on the Index of Records, please indicate that here.

6. Reasons why the search was inadequate

If you believe the public body/trustee has missed listing records on the Index of Records, give reasons why you believe there are more records that exist or why you believe the public body/trustee did not do an adequate search. Providing supporting evidence is helpful, such as emails or other documents that show the likelihood of the existence of the record requested. You may also wish to refer to or cite the [Guide to FOIP \(Chapter 3\)](#), [Guide to LA FOIP \(Chapter 3\)](#) or [Guide to HIPA](#).

7. Reasons why the fee is too large

If a fee was charged, reasons why you think the fee was too high. For example, perhaps the number of records calculated by the public body/trustee is not what was requested. See section 6 of the FOIP Regulations, section 5 of the LA FOIP Regulations and section 39 of HIPA. You may also wish to refer to or cite the [Guide to FOIP \(Chapter 3\)](#), [Guide to LA FOIP \(Chapter 3\)](#) or [Guide to HIPA](#).

8. Reasons why the fee should be waived

If you did request a waiver of fees, give reasons why you believe the fee should be waived, including documents showing your financial position. See section 9 of the FOIP Regulations and section 8 of the LA FOIP Regulations. You may also wish to refer to or cite the [Guide to FOIP \(Chapter 3\)](#), [Guide to LA FOIP \(Chapter 3\)](#) or [Guide to HIPA](#). Attach any documents you provided to the public body/trustee to support your request to waive the fee.

9. Conclusion

Optional, an opportunity to focus the Commissioner's office on the important issues.

10. List of attached documents

List the documents you have referred to in this submission and attach copies. This can include letters, emails, forms, spreadsheets, contracts or screenshots. Some examples are as follows:

- *index of Records;*
- *original Access Request;*
- *section 7 letter under FOIP or LA FOIP or 36 under HIPA;*
- *other Communications with Public Body/Trustee [if any];*
- *communications with Third Parties [if any]; and/or*
- *notification from Commissioner's office.*

If you requested a waiver of fees, attach documents that would support your request for a waiver of fees such as tax returns, social assistance confirmation or list of income and expenses.

Appendix B: Template for Public Bodies/Trustees

Information and Privacy Commissioner

Submission by _____
[Applicant Name]

IPC File Number: _____

Date: _____

**The public body/trustee should adapt this template to meet the needs of the public body/trustee.*

1. Introduction

Optional, an opportunity to focus the Commissioner's office on the important issues.

2. Description of the public body/trustee

Optional, briefly describe your organization.

3. Applicable legislation

If applicable, quote any legislation including regulations that apply to the public body/trustee and particularly quote legislation that addresses access and privacy.

4. Sharing of submission

*Indicate whether the Commissioner **can or cannot** share this submission with the applicant. Most public bodies choose not to share and it is their decision as to whether they will share.*

5. Jurisdictional issues

If you are going to indicate the Commissioner does not have jurisdiction to review this matter, indicate that here, citing Saskatchewan cases, the Supreme Court of Canada cases, other provincial or territorial cases, or earlier reports of the Commissioner, whichever may be applicable. If there are no jurisdictional issues, this heading can be left blank or deleted.

6. Access request

If there is an access request, quote the relevant portion of the access request or attach it to the submission.

7. Scope of this review

Quote from the Notification of Review sent by the Commissioner's office - usually the 4th paragraph in the notification, or attach the notification to the Submission. If there have been communications with the Commissioner's office after the notification, refer to any amendments (additions or deletions) to the notification or attach those communications.

8. Documents at issue

Attach the Index of Records. If all the records on the index are at issue, please say so. If some further records have been released to the applicant, please indicate which records have been or will be released. If the applicant has reduced the number of records requested, please indicate which records are no longer at issue. Attach communications with the applicant supporting reduction of the records being requested.

9. Statutory interpretation

The principles of statutory interpretation followed by the Commissioner are set out in the [Guide to FOIP](#) and the [Guide to LA FOIP](#). If the public body/trustee has a different position on interpretation of FOIP, LA FOIP or HIPA, please set it out here. If there are no statutory issues, this can be left blank or deleted.

10. Meaning of words

The [Guide to FOIP](#), the [Guide to LA FOIP](#), or the [Dictionary](#) defines the meaning of many words used in the legislation and used by the Commissioner's office. If the public body/trustee proposes to use a different definition of a word, set out the definition with supporting references from cases or dictionaries. If there are no definition issues, this can be left blank or deleted.

11. Following legislated timelines

If the applicant has raised a concern over legislated timelines, outline the relevant timelines and indicate whether the public body/trustee believes timelines were met or give reasons why timelines were not met. See section 7 of FOIP or LA FOIP and section 36 of HIPA. If timelines are not an issue, then this heading can be left blank or deleted.

12. Reasons why the search was adequate

If the applicant has raised the adequacy of the search, outline the steps taken to perform the search and attach any documents supporting the search process. See the office's resources [How to Conduct an Effective Search for Records](#) and [Search Checklist](#). If adequate search is not an issue, this heading can be left blank or deleted.

13. Reasons why the requested records do not exist

Give background or history as to why the records requested do not exist or were destroyed in accordance with a destruction policy. If "records do not exist" is not an issue, this heading can be left blank or deleted.

14. Duty to assist

If the review raises the issue of duty to assist, the public body/trustee should provide details of its efforts to meet the duty to assist. See section 5.1 of FOIP or LA FOIP or section 35 of HIPA. If duty to assist is not an issue, this heading can be left blank or deleted.

15. Decision not to release records

If exemption(s) are claimed, then the public body/trustee should provide the reasons for claiming the exemption(s) using the sample outline below. In the section 7 letter under FOIP or LA FOIP or section 36 of HIPA, you have indicated the exemptions the public body/trustee is claiming or the reasons for refusing the request. If you are abandoning any particular exemption, indicate this here. If you are adding an exemption that was not mentioned previously, indicate that here. It is best to address each exemption under a heading and subheadings. The outline below is a guide and public bodies/trustees are free to adapt this outline to reflect the current situation.

Exemptions Claimed

1. Decision to refuse release of records under subsection 17(1)(a) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Does the information qualify as advice, proposals, recommendations, analyses or policy options?
 - ii. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?
 - b. Records or pages 5-10 or Redactions 5-10
 - iii. Does the information qualify as advice, proposals, recommendations, analyses or policy options?

- iv. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?
 - c. Records or pages ...
- 2. Decision to refuse release of records under subsection 17(1)(b) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Does the record contain consultations or deliberations?
 - ii. 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?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - i. Does the record contain consultations or deliberations?
 - ii. 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?
 - c. Records or pages ...
- 3. Decision to refuse release of records under subsection 17(1)(c) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Does the record contain positions, plans, procedures, criteria, instructions or considerations that relate to the negotiations?
 - ii. Were the positions, plans, procedures, criteria, instructions or considerations developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - i. Does the record contain positions, plans, procedures, criteria, instructions or considerations that relate to the negotiations?
 - ii. Were the positions, plans, procedures, criteria, instructions or considerations developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution?
 - c. Records or pages ...

This sample outline uses a specific section and specific tests. This needs to be adapted to the exemptions claimed and the tests under that exemption.

16. Severance of records

If the applicant or Commissioner's office has raised the issue of the amount or manner of severance, the public body/trustee can provide reasons why it has properly severed records

according to the exemptions claimed. See section 8 of FOIP or LA FOIP. If severance is not an issue, this heading can be left blank or deleted.

17. Review of fees

If the applicant has asked the fee to be reviewed, provide reasons and calculations for how the fee was determined. See section 6 of the FOIP Regulations or section 5 of the LA FOIP Regulations or section 39 of HIPA. If the fees are not an issue, this heading can be left blank or deleted.

18. Waiver of fees

If the applicant has requested a review of the refusal to waive fees, provide reasons why the fees were not waived. See section 9 of the FOIP Regulations or section 8 of the LA FOIP Regulations. If the waiver of fees is not an issue, this heading can be left blank or deleted.

19. Conclusion

Optional, an opportunity to focus the Commissioner's office on the important issues.

20. List of attached documents

List the documents you have referred to in this submission and attach copies. This can include letters, emails, forms, spreadsheets, contracts or screenshots. Some examples are as follows:

- *Index of Records;*
- *Original Access Request;*
- *Section 7 of FOIP or LA FOIP or section 36 of HIPA letter;*
- *Other Communications with applicant;*
- *Communications with Third Parties [if any]; and/or*
- *Notification from Commissioner's office.*

Appendix C: Template for Third Parties

Information and Privacy Commissioner

Submission by _____
[Applicant Name]

IPC File Number: _____

Date: _____

**The third party should adapt this template to meet the needs of the third party.*

1. Introduction

Optional, an opportunity to focus the Commissioner's office on the important issues under section 19 of FOIP, section 18 of LA FOIP, section 38 of HIPA.

2. Jurisdictional issues

If you believe the Commissioner does not have jurisdiction to review the records held by the public body/trustee, please provide your reasons for believing so, along with references, Saskatchewan cases, Supreme Court of Canada cases, and other provincial or territorial cases or earlier reports of the Commissioner, whichever may be applicable.

3. Documents at issue

Indicate which documents you are requesting not be released under section 19 of FOIP (section 18 of LA FOIP, section 38 of HIPA). Attach a list.

4. Statutory interpretation

The principles of statutory interpretation followed by the Commissioner's office are set out in the [Guide to FOIP](#) and [Guide to LA FOIP](#). If the third party has a different position on interpretation of FOIP, LA FOIP or HIPA please set it out here. If there are no statutory issues, this can be left blank or deleted.

5. Meaning of words

The [Guide to FOIP](#), [Guide to LA FOIP](#), and the [IPC Dictionary](#) defines the meaning of many words used in the legislation and used by the Commissioner's office. If the third party proposes to use a different definition of a word, set out the definition with supporting references from cases or dictionaries. If there are no definition issues, this can be left blank or deleted.

6. Following legislated timelines

Indicate whether you have followed the timelines that apply to third parties.

7. Exemptions claimed

Only claim exemptions under section 19 of FOIP, section of 18 of LA FOIP, or section 38 of HIPA. The outline below is a guide and third parties are free to adapt this outline to reflect the current situation.

1. Request to refuse release of records under subsection 19(1)(a) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Does the record contain trade secrets of a third party?
 - b. Records or pages 5-10 or Redactions 5-10
 - i. Does the record contain trade secrets of a third party?
 - c. Records or pages ...

2. Request to refuse release of records under subsection 19(1)(b) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Is the information financial, commercial, scientific, technical or labour relations information of a third party?
 - ii. Was the information supplied by the third party to a government institution?
 - iii. Was the information supplied in confidence implicitly or explicitly?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - i. Is the information financial, commercial, scientific, technical or labour relations information of a third party?
 - ii. Was the information supplied by the third party to a government institution?
 - iii. Was the information supplied in confidence implicitly or explicitly?
 - c. Records or pages ...

3. Request to refuse release of records under subsection 19(1)(c)(i) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. What is the financial loss or gain being claimed?
 - ii. Could release of the record reasonably be expected to result in financial loss or gain to a third party?
 - b. Records or pages 5 to 10 or Redactions 5 to 10

- i. What is the financial loss or gain being claimed?
 - ii. Could release of the record reasonably be expected to result in financial loss or gain to a third party?
 - c. Records or pages ...
- 4. Request to refuse release of records under subsection 19(1)(d) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Is the record a statement of a financial account relating to a third party with respect to the provision of routine services?
 - ii. Is the statement from a government institution?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - i. Is the record a statement of a financial account relating to a third party with respect to the provision of routine services?
 - ii. Is the statement from a government institution?
 - b. Records or pages ...
- 5. Request to refuse release of records under subsection 19(1)(e) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Is the record a statement of financial assistance?
 - ii. Was the statement provided to a third party by a prescribed Crown corporation that is a government institution?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - ii. Is the record a statement of financial assistance?
 - iii. Was the statement provided to a third party by a prescribed Crown corporation that is a government institution?
 - c. Records or pages ...
- 6. Request to refuse release of records under subsection 19(1)(f) of FOIP
 - a. Records or pages 1 to 5 or Redactions 1 to 5
 - i. Was the information to support an application for financial assistance?
 - ii. Was the information supplied by a third party?
 - b. Records or pages 5 to 10 or Redactions 5 to 10
 - i. Was the information to support an application for financial assistance?
 - ii. Was the information supplied by a third party?
 - c. Records or pages ...

8. Claiming personal information

Claiming personal information under section 29 of FOIP or section 28 of LA FOIP.

9. Conclusion

Optional, an opportunity to focus the Commissioner's office on the important issues under section 19 of FOIP, section 18 of LA FOIP, or section 38 of HIPA.

10. List of attached documents

List the supporting documents you have referred to in this submission and attach copies. This can include letters, emails, forms, spreadsheets or screenshots. Some examples are as follows:

- *Index of Records*
- *Communications with Public Body/Trustee*