



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **REVIEW REPORT 101-2024**

### **Saskatchewan Cancer Agency**

**December 3, 2024**

#### **Summary:**

The Applicant submitted a five-part access to information request to the Saskatchewan Cancer Agency (SCA) requesting access to records. The SCA released in full the records responsive to Request #5. With respect to Requests #1 to #4, the SCA withheld pages in full or in part pursuant to subsections 14(1)(c), 16(1)(b), (d), 18(1)(b), (c), 21(a), (b), 28(1) and 30(2) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). It also claimed that some portions were non-responsive. The Applicant requested a review by the Commissioner. During the review, the SCA released records that were previously withheld pursuant to subsections 18(1)(b) and (c) of LA FOIP. Also, during the review, the Applicant provided the A/Commissioner with copies of consents which they claimed were sufficient to support the release of third parties' personal information. The A/Commissioner found that the SCA properly applied the exemptions in some cases but not all. He also found that the SCA properly claimed that information was not responsive. The A/Commissioner found that the third-party consents did not meet the requirements of subsection 11(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act Regulations*. The A/Commissioner recommended that within 10 days, the SCA contact the third parties to obtain their informed consent to the release of their personal information. Where informed consent is provided, he recommended that, within 30 days, the SCA release to the Applicant the personal information to which the consents apply, subject to the application of any other exemptions. He also recommended that the SCA develop a policy prohibiting its employees from using their personal email addresses for work related activities. Further he recommended that the SCA, within 30 days, release, subject to any mandatory exemptions, and withhold information as set out in the Appendix. Finally, he recommended that the SCA consider releasing any non-responsive information subject to any exemptions that may apply.

## I BACKGROUND

- [1] This Report relates to an investigation into allegations of harassment made by the Applicant, an employee of the Saskatchewan Cancer Agency (SCA), against current and former staff of the SCA.
- [2] The Applicant made a five-part access to information request under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) to the SCA. The SCA received the request on November 30, 2023.
- [3] Following a conversation between the Applicant and the SCA on December 7, 2023, and an exchange of correspondence, the Applicant clarified the request so that it stated as follows:

Request #1: All letters and/or correspondence, in electronic form or otherwise, sent by employees at the Saskatchewan Cancer Agency to Chief Executive Officer, Vice President Care Services, Director of Oncology Pharmacy Services and the Ombudsman, that reference me by my name (Applicant's name redacted) and or that reference my employment at the Saskatchewan Cancer Agency.

Time frame: October 03, 2022 - October 31, 2022

Request #2: All correspondence, in electronic form or otherwise, sent or received between staff and employers and/or sent or received between staff at the Saskatchewan Cancer Agency that include reference to me by name [Applicant's name redacted] and/or that include reference to my employment at the Saskatchewan Cancer Agency and/or a reference to the harassment complaint filed by me, and/or a reference to my leave.

Time frame: All correspondence in your possession inclusive of, and after the date of, October 3, 2022.

Request #3: All records, in electronic form or otherwise that include reference to me by name [Applicant's name redacted] and/or that reference the letters identified in Request #1 and/or that include reference to my employment at the Saskatchewan Cancer Agency and/or that include reference to the harassment complaint filed by me.

Time Frame: All correspondence in your possession inclusive of, and after the date of, October 3, 2022."

Request #4: All records and/or correspondence, electronic or otherwise, that include reference to the November 23, 2022 meeting which included attendees [names redacted] and myself and/or that were produced at, or as a result of this meeting.

Time Frame: All records in your possession inclusive of, and after the date, of November 23, 2022.

Request #5: All records, in electronic form or otherwise, contained in my personnel file.

Time Frame: All records in your possession.

[4] On February 2, 2024, the SCA provided a fee estimate to the Applicant in the amount of \$2,470.00 and requested a deposit of \$1,235.00 which was paid.

[5] The SCA issued a final fee invoice on March 4, 2024, with the revised lower amount of \$2,335.00 and requested the balance owing from the Applicant of \$1,100.00. The Applicant paid the remaining balance the same day.

[6] On March 14, 2024, the SCA sent a section 7 decision to the Applicant releasing in full the records responsive to Request #5. With respect to Requests #1 to #4, SCA withheld records in full or in part pursuant to subsections 14(1)(c), 16(1)(b), (d), 18(1)(b), (c), 21(a), (b), 28(1) and 30(2) of LA FOIP. The redacted records were grouped into batches. The SCA provided the Applicant with an index of records for each batch.

[7] On April 4, 2024, the Applicant filed a request for a review with my office asking that my office review the SCA's decision to apply exemptions.

[8] On April 24, 2024, my office sent a notice of review to the Applicant and the SCA inviting them to provide my office with a submission by June 24, 2024. In addition, my office requested the SCA provide my office with a copy of the records at issue and its index of records by May 24, 2024.

[9] On the same day, my office also sent a notice of review to two organizations identified by the SCA as having an interest in the records under section 18 of LA FOIP. The notice

invited the third parties to either provide their consent to the release of the records containing the information or a submission setting out their views on the application of subsections 18(1)(b), 18(1)(c)(i), 18(1)(c)(ii) and 18(1)(c)(iii) of LA FOIP.

[10] On April 25, 2024, one third party provided my office with its consent to the release of information to the Applicant. The other third party provided its consent on May 2, 2024.

[11] On May 24, 2024, the SCA provided my office a copy of the records at issue and its index of records.

[12] On May 31, 2024, the SCA issued a revised section 7 decision releasing the portions of the records where it had previously applied subsections 18(1)(b) and (c) of LA FOIP. As a result of this decision, subsections 18(1)(b) and (c) of LA FOIP are no longer at issue in this review.

[13] On June 7, 2024, following discussions between my office and the SCA, the SCA sent revised indices for each batch of responsive records to correct some errors and account for the records that were released to the Applicant pursuant to the revised section 7 decision.

[14] On June 19, 2024, the Applicant provided my office with a submission. Attached to the submission were three consents signed by three individuals. Copies of these consents are being provided to the SCA with the copy of this Report.

[15] On July 2, 2024, the SCA provided my office with its submission.

## **II RECORDS AT ISSUE**

[16] The SCA identified 11 batches of records, a personnel file and a final investigation report as responsive records for a total of approximately 2,200 pages. The SCA released the personnel file in full and two batches of emails. It also released one batch of Webex messages. Therefore, there are nine batches of records remaining at issue, comprised of

approximately 1,400 pages. Portions of the records at issue have been withheld in full or in part. However, the final investigation report, which is comprised of 212 pages, was withheld in full.

[17] Some of the responsive records are duplicate copies of emails or messages. Most of the responsive records include emails and instant messages. The SCA has in most cases released the headers, subject lines, footers and confidentiality statements that appear on the emails and the instant messages.

[18] The Appendix to this Report includes a description of the withheld records or portions of records, the exemptions applied by the SCA and a summary of my findings and recommendations. The records are grouped in batches using the descriptors set out in indices provided by the SCA to my office and the Applicant.

### **III DISCUSSION OF THE ISSUES**

#### **1. Do I have jurisdiction?**

[19] The SCA is prescribed as a local authority pursuant to subsection 3(2) and Appendix Part II of *The Local Authority Freedom of Information and Protection of Privacy Act Regulations* (Regulations). Therefore, the SCA qualifies as a “local authority” pursuant to subsection 2(1)(f)(xvii) of LA FOIP. I find that I have jurisdiction to conduct this review.

#### **2. Did the SCA properly apply subsection 14(1)(c) of LA FOIP?**

[20] The SCA applied subsection 14(1)(c) of LA FOIP to records and portions of records set out in the Appendix to this Report. Subsection 14(1)(c) of LA FOIP provides:

**14(1)** A head may refuse to give access to a record, the release of which could:

...

(c) interfere with a lawful investigation or disclose information with respect to a lawful investigation;

[21] Subsection 14(1)(c) of LA FOIP is a discretionary exemption. It permits refusal of access in situations where the release of a record could interfere with a lawful investigation or disclose information with respect to a lawful investigation (*Guide to LA FOIP*, Chapter 4, “Exemptions from the Right of Access”, updated October 18, 2023 [*Guide to LA FOIP*, Ch. 4], p. 53).

[22] My office uses the following two-part test to determine if subsection 14(1)(c) of LA FOIP applies:

1. Does the local authority’s activity qualify as a “lawful investigation”?
2. Does one of the following exist?
  - a) Could release of the following information interfere with a lawful investigation?  
or
  - b) Could release disclose information with respect to a lawful investigation?

(*Guide to LA FOIP*, Ch. 4, pp. 53 to 54).

[23] Before I turn to consider if the two-part test has been met, the circumstances of the investigation in this case are important. In early 2023, the Applicant filed a harassment complaint. It included 17 allegations regarding workplace events that occurred in 2022. A third-party investigator was retained to investigate the harassment complaint in March 2023. Therefore, although the investigation was commenced in the spring of 2023, it relates to matters that occurred in 2022.

[24] During the harassment investigation, the investigators interviewed SCA employees, and collected and reviewed SCA records including emails and other communications relating to the allegations of harassment. A final report was issued in August of 2023. The Applicant was provided with a summary report of the investigation report as required by the SCA’s

“Respectful Workplace” policy which applies to harassment complaints, a copy of which was provided to my office.

[25] SCA stated that the records to which it applied subsection 14(1)(c) of LA FOIP relate to its investigation into the harassment complaint. It added that the complaint was filed under SCA’s “Respectful Workplace” policy. The SCA submitted that it applied subsection 14(1)(c) of LA FOIP to records that “arose from” the investigation. It stated that employees who were interviewed were told that their information would be “dealt with in a confidential manner.”

[26] The SCA submitted that it satisfied the requirements of the two-part test as release of the withheld information at issue could disclose information with respect to a lawful investigation. It did not claim that release could interfere with an investigation. Therefore, I will not be considering that portion of the test here.

[27] Based on a review of the Applicant’s submission, I understand that they claim that the SCA inappropriately applied subsection 14(1)(c) of LA FOIP to records involving “an investigation” that occurred in 2022 that they were not aware of. They stated:

I believe this exemption is being applied to records claiming to be an investigation that I was unknowingly being implicated in. These records are in reference to photograph [sic], which was received by an employee of the pharmacy department, in October of 2022.

[28] With respect to the Applicant’s 2023 harassment complaints and the ensuing investigation, the Applicant stated:

In regards to the investigation of my harassment complaint (attached), filed February 2023, disclosed records reveal a decision was made by the investigator and the government lawyer to not investigate the “breach of policy” portion of my complaint. With the exception of associated cost, no other records were disclosed supporting why this decision was made. I believe this exemption is wrongly applied.

[29] The following is an analysis to determine if the two-part test has been met.

**1) Does the local authority's activity qualify as a "lawful investigation"?**

[30] A "lawful investigation" is an investigation that is authorized or required and permitted by law. The local authority should identify the legislation under which the investigation is occurring. The investigation can be concluded, active and ongoing or be occurring in the future. It is not limited to investigations that are conducted by a local authority. In other words, it can include investigations conducted by other organizations (e.g., a police investigation) (*Guide to LA FOIP*, Ch. 4, p. 53).

[31] Subsection 3-21.1(3) of *The Saskatchewan Employment Act* (SEA) requires that an employer conduct an investigation into any incident of workplace harassment. Subsection 3-21 of the SEA states:

**3-21.1(3)** An employer shall ensure that an investigation is conducted into any incident of workplace harassment.

[32] The SEA includes the following definition of "harassment" in subsection 3-1(1)(l):

**3-1(1)** In this Part and in Part IV:

...

(l) "**harassment**" means:

(i) any inappropriate conduct, comment, display, action or gesture by a person towards a worker:

(A) that either:

(I) is based on any prohibited ground as defined in *The Saskatchewan Human Rights Code, 2018* or on physical size or weight; or

(II) subject to subsections (4) and (5), adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause the worker to be humiliated or intimidated; and

(B) that constitutes a threat to the health or safety of the worker; or



(ii) any conduct, comment, display, action or gesture by a person towards a worker that:

(A) is of a sexual nature; and

(B) the person knows or ought reasonably to know is unwelcome;

[33] SCA's submission did not address the definition of harassment found in the SEA. Based on a review of the records, including the allegations made against the SCA employees, it is apparent that the SCA's harassment investigation qualified as a "lawful investigation" authorized under subsection 3-21.1(3) of the SEA. Part one of the test has been met.

***2. Does one of the following exist?***

...

***b) Could release disclose information with respect to a lawful investigation?***

[34] My office's *Guide to LA FOIP*, Ch. 4, states at page 54:

"With respect to" are words of the widest possible scope; the phrase is probably the widest of any expression intended to convey some connection between two related subject matters.

Section 14 uses the word "could" versus "could reasonably be expected to" as seen in other provisions of FOIP. The threshold for could is somewhat lower than a reasonable expectation. The requirement for could is simply that the release of the information could have the specified result. There would still have to be a basis for asserting the outcome could occur. If it is fanciful or exceedingly remote, the exemption should not be invoked.

[35] In my office's [Review Report 2001-029](#), my predecessor considered the application of subsection 15(1)(c) of *The Freedom of Information and Protection of Privacy Act* (FOIP), (the equivalent to subsection 14(1)(c) of LA FOIP) to records involving an inquiry under *The Public Inquiries Act*. He found that the words "disclose information with respect to a lawful investigation" do not apply to the disclosure of information or documents that will form part of the evidence adduced at the inquiry. He added that the requirement that the release "disclose information with respect to a lawful investigation was intended to protect the methods or techniques."

[36] This approach was followed in my office's [Review Report 223-2016](#), (which also considered subsection 15(1)(c) of FOIP). This report involved a request for access to on-site tests and inspections of an oil company. In that report, I stated:

[35] The wording "disclose information with respect to a lawful investigation" is unique to Saskatchewan. No other access to information statutes across Canada include this phrase.

[36] In my office's Review Report 2001/029, the view of past Saskatchewan Information and Privacy Commissioner Gerald Gerrand, Q.C. was that subsection 15(1)(c) of FOIP relates to "methods or techniques that might be employed for the purpose of carrying out" an investigation.

[37] This is also my view. Records caught by this exemption should relate to the process of the investigation itself, not records that existed before the investigation commenced such as regular reporting information.

[37] Review Report 223-2016 was followed recently in my office's Review Reports [046-2018](#) and [003-2022](#).

[38] In a review of the records to which the SCA applied subsection 14(1)(c) of LA FOIP, it is apparent that some of them do not reveal information about the methodology, technique or process followed by the SCA or the third-party investigator looking into the harassment allegations.

[39] Some of the records were created as part of SCA's regular practices or routines such as receiving emails regarding staff concerns, email exchanges between management staff about how to manage staff concerns, the excerpts from the workplace assessment report and workplace mediation, meeting notes and speaking notes for meetings. While some of these records may reveal information that touches on the subject matter of the Applicant's harassment complaint, they do not reveal the methods, techniques or processes of the lawful investigation.

[40] Some of the records are dated after the investigation was concluded and are about human resources matters that are not with respect to the investigation. Therefore, part two of the test has not been met for these records. As both parts of the test must be met, I find that the SCA did not properly apply subsection 14(1)(c) of LA FOIP to the records described here and above in paragraph [39].

[41] The SCA withheld 29 pages of records that, in the index, it described as “Investigation Notes.” This information can be found in Other Documents Batch 1 pages 1 to 29. On a review of these pages, they appear to be a summary of events, emails and an individual’s thoughts about events that occurred in 2022. There is no indication as to who prepared this record, the circumstances surrounding its preparation and how it relates to the harassment investigation either in the record or in the SCA’s submission. The description of the records as “Investigation Notes” is no more than a bald assertion to that affect as the pages are untitled. SCA has not met the burden of proof that the exemption applies to this record as it is required to do pursuant to section 51 of LA FOIP which provides as follows:

**51** 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.

[42] Therefore, I find that subsection 14(1)(c) of LA FOIP does not apply to this record.

[43] The SCA applied subsection 14(1)(c) of LA FOIP to handwritten notes on Other Documents Batch 1 page 38. However, in the absence of further information or evidence to explain how these notes are “with respect to the lawful investigation”, I find that the SCA has not met its burden of proof pursuant to section 51 of LA FOIP.

[44] Some of the records do reveal the process or methodology of the harassment investigation. This finding applies to the following types of information: emails to and from the investigator to SCA management about the process of the investigation, emails about the retention of a third party to do the investigation, the parties to be interviewed and the timing of interviews. In addition, there are internal emails about the status and process of the investigation and the roles of various staff in the investigation. Therefore, I find that part

two of the test has been met and the SCA properly applied subsection 14(1)(c) of LA FOIP to this information.

[45] The SCA also applied subsection 14(1)(c) of LA FOIP to the final report issued by the third-party investigator. It includes details of the investigation including the process undertaken, observations made, analysis of information and evidence and conclusions.

[46] Previous reports of my office have found that final reports of lawful investigations meet both parts of the test for the application of this exemption, such as my office's Review Reports [188-2023](#), [192-2023](#), [206-2023](#), which considered the equivalent provision in subsection 15(1)(c) of FOIP, and [126-2015](#). I will follow the same approach here. I find that the SCA properly applied subsection 14(1)(c) of LA FOIP to this record.

[47] Some of the information withheld pursuant to subsection 14(1)(c) of LA FOIP is comprised of emails between SCA employees and the Applicant. This includes an email and attachment found at Emails Batch 1 pages 79 to 88 and Emails Batch 2 page 111. It would be absurd to withhold this information from the Applicant and I recommend that it be disclosed to them.

[48] In conclusion, I find that the SCA properly applied subsection 14(1)(c) of LA FOIP to some records but not all. Details of my findings and recommendations are set out in the Appendix.

[49] Where I have found that the SCA did not properly apply subsection 14(1)(c) of LA FOIP and other exemptions have been applied, I will consider the other exemptions below.

[50] It appears that some of the records that I am recommending the SCA release, may contain personal information that is subject to subsection 28(1) of LA FOIP. I note the SCA has not claimed that exemption for these records. My recommendations regarding release are subject to the requirement for the SCA to review those records and continue to withhold

any information that may be subject to the mandatory exemption in subsection 28(1) of LA FOIP.

**3. Did the SCA properly apply subsection 21(a) of LA FOIP?**

[51] The SCA applied subsection 21(a) (solicitor-client privilege) of LA FOIP to portions of the records as set out in the Appendix. The SCA provided my office with redlined copies of the records for which it claimed this exemption. Therefore, my office has had an opportunity to review the withheld information.

[52] Given my findings above on the application of subsection 14(1)(c) of LA FOIP, it is not necessary for me to consider all of the severances to which the SCA applied subsection 21(a) of LA FOIP.

[53] Subsection 21(a) of LA FOIP is a discretionary exemption. It permits refusal of access in situations where a record contains information that is subject to any legal privilege, including solicitor-client privilege (*Guide to LA FOIP*, Ch. 4, p. 219).

[54] Subsection 21(a) of LA FOIP provides:

**21** 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;

[55] The purpose of the exemption for solicitor-client privileged information in subsection 21(a) of LA FOIP is to assure clients of confidentiality and enable them to speak honestly and candidly with their legal representatives. My office applies the following three-part test in determining if this exemption was properly applied:

1. Is the record a communication between a solicitor and client?
2. Does the communication entail the seeking or giving of legal advice?

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

(*Guide to LA FOIP*, Ch. 4, pp. 221-225)

[56] The SCA provided my office with a submission addressing its claim to privilege. It stated:

The records exempted under ss 21(a) contain communications to SCA lawyers for the purpose of obtaining legal advice, or they contain legal advice provided to SCA employees. The records were created with a view to making a decision, and to consider options and reasons for and against certain actions that had, or could have had, legal considerations.

...

Legal counsel was involved in arranging and overseeing the investigation into the Applicant's harassment complaint. In addition to compliance with the policy, legal counsel had an obligation to ensure compliance with employment legislation, and to advise the organization as it related to potential liability under employment and human rights legislation, and under the common law. ... It should be noted that the SCA took a liberal view of section 21, and was careful to release as many records as possible to the Applicant without interfering with its solicitor-client privileges. Where there was doubt regarding whether to release or not, the SCA aired on the side of releasing the information to the Applicant.

[57] The Applicant submitted:

The government lawyer was handling the harassment complaint I submitted in February 2023 (attached). The director of Human Resources would typically handle this but was named as a respondent along with several members of leadership.

In accordance with IPC Guide to LA FOIP, Chapter4, *Exemptions from the Right of Access*. Updated 18 Oct 2023 p: 227-232, exemptions may not apply.

[58] As set out in the *Guide to LA FOIP*, Ch. 4 at page 227, solicitor-client 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.

[59] I note that subsection 21(a) of LA FOIP was claimed for Other Documents Batch 1 page 55 but the SCA did not claim it in relation to Other Documents Batch 1 page 61. It appears that this was a clerical error and for the purposes of the analysis that follows, I will be considering the application of this exemption to this page.

[60] I now turn to the first part of the test.

***1) Is the record a communication between a solicitor and client?***

[61] 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 (*Guide to LA FOIP*, Ch. 4, p. 221).

[62] A “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 their behalf. It includes a client of the law firm in which the lawyer is a partner or associate, whether the lawyer handles the client’s work (*Guide to LA FOIP*, Ch. 4, p. 222).

[63] “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 program (*Guide to LA FOIP*, Ch. 4, p. 222).

[64] The local authority should make it clear who the solicitor is and who the client is.

[65] In a review of the records, with some exceptions noted later in this Report, it is apparent that SCA’s General Counsel was directly involved in email communications and notes of verbal communications that occurred at meetings with SCA staff. The General Counsel is

licensed to practice law according to the Law Society of Saskatchewan's website. Based on a review of the records the SCA was at all material times the client.

[66] The exceptions are where legal counsel was not involved directly. However, in those cases legal counsel's communication was repeated, referred to or communicated by other SCA staff. My office's *Guide to LA FOIP*, Ch. 4 at page 222, states that written communications between officials or employees of a local authority, quoting the legal advice given orally by the local authority's solicitor, or employee's notes documenting the legal advice given orally by the solicitor could qualify. This includes notes "to file" in which legal advice is quoted or discussed (*Guide to LA FOIP*, Ch. 4, p. 222).

[67] This approach was followed in my office's [Review Report 077-2021](#) and more recently in [Review Report 004-2023](#) both of which involve the equivalent provision in FOIP which applies to government institutions.

[68] I will follow the same approach here. In Emails Batch 1 page 68 (severance 4), Emails Batch 2 page 94 (severance 3), page 239, and page 336 (severance 1), the author of the email or message sets out legal advice that was provided by General Counsel to the SCA. Part one of the test has been met for this information and the information described in paragraph [65] above.

[69] Similarly, the first sentence of Other Documents Batch 1 pages 55 and 61 include a reference to legal advice provided by the General Counsel and therefore part one of the test has been met for this information.

[70] However, the second sentence does not involve a communication with legal counsel, and it does not set out legal advice. The first part of the test has not been met for this information. I find that the SCA did not properly apply subsection 21(a) of LA FOIP to this sentence.



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

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

[71] “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 (*Guide to LA FOIP*, Ch. 4, p. 224).

[72] For the third part of the test, I must determine if there is an expectation on the part of the SCA that the communication will be confidential. Without confidentiality there can be no privilege and when confidentiality ends so too should the privilege. As a general rule, the client must not have disclosed the legal advice (either verbally or in writing) to parties who are outside of the solicitor-client relationship (*Guide to LA FOIP*, Ch 4, pp. 225 to 226).

[73] I find that the communications at issue entailed the seeking or giving of legal advice including legal advice relating to the circumstances surrounding the harassment investigation and other human resources matters that pre and post-dated the harassment investigation.

[74] Based on a review of the records and the information provided by the SCA, it appears that the parties intended the communications to be treated confidentially. Therefore, the third part of the test is met. I find that the SCA properly applied subsection 21(a) of LA FOIP in some cases but not all. Details of my findings and recommendations are set out in the Appendix.

#### **4. Did the SCA properly apply subsection 21(b) of LA FOIP?**

[75] As noted above, the SCA has provided my office with copies of the records at issue. It applied subsection 21(b) of LA FOIP to some of those records. This exemption provides:

**21** A head may refuse to give access to a record that:

...

(b) was prepared by or for legal counsel of the local authority in relation to a matter involving the provision of advice or other services by legal counsel; or

[76] Subsection 21(b) of LA FOIP is a discretionary exemption. It permits refusal of access in situations where a record was prepared by or for legal counsel for a local authority in relation to the provision of advice or services by legal counsel. This provision is broader in scope than subsection 21(a) of LA FOIP (*Guide to LA FOIP*, Ch. 4, p. 237).

[77] My office uses the following two-part test to determine if this exemption was properly applied:

1. Were the records “prepared by or for” legal counsel for a local authority?
2. Were the records prepared in relation to a matter involving the provision of advice or other services by legal counsel?

[78] The SCA submitted that it applied this exemption to advice and communications from legal counsel to SCA employees and to information if disclosed would permit the drawing of inferences as to the nature of the records. It explained that legal counsel was involved in arranging and overseeing the investigation. It was their obligation to ensure compliance with legislation and policy and to advise the SCA as it related to liability under various laws.

[79] I need only consider the application of subsection 21(b) of LA FOIP to the Other Documents Batch 3 page 20. This document is a series of notes taken at a meeting between various SCA personnel, including legal counsel. It is apparent that the notes were prepared by legal counsel, and they document information provided to them by meeting attendees. It is also apparent that they relate to matters involving the provision of legal advice, such as leave entitlements and other human resources matters. I find that the SCA properly applied subsection 21(b) of LA FOIP to this page. I recommend that the SCA continue to withhold this information.

**5. Did the SCA properly apply subsections 16(1)(b) and (d) of LA FOIP?**

[80] The SCA applied subsection 16(1)(b) and (d) of LA FOIP to withhold portions of responsive records as set out in the Appendix. Where I have found the SCA properly applied other exemptions (see Appendix), I will not consider if it properly applied subsections 16(1)(b) and (d) of LA FOIP to the same information.

[81] Subsection 16(1)(b) of LA FOIP is a discretionary exemption. It permits refusal of access in situations where release of a record could reasonably be expected to disclose consultations or deliberations involving officers or employees of a local authority.

[82] Subsection 16(1)(d) of LA FOIP is also a discretionary exemption. It permits refusal of access in situations where release of a record could reasonably be expected to disclose plans that relate to the management of personnel or the administration of a local authority which have not yet been implemented.

[83] These subsections provide:

**16(1)** Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

...

(b) consultations or deliberations involving officers or employees of the local authority;

...

(d) plans that relate to the management of personnel or the administration of the local authority and that have not yet been implemented; or

[84] My office uses the following two-part test to determine if subsection 16(1)(b) of LA FOIP applies:

1. Does the record contain consultations or deliberations?

2. Do the consultations or deliberations involve officers or employees of the local authority?

*(Guide to LA FOIP, Ch. 4, pp. 115-116)*

[85] My office uses the following three-part test to determine if subsection 16(1)(d) of LA FOIP applies:

1. Does the record contain a plan(s)?
2. Does the plan(s) relate to:
  - i) The management of personnel?
  - ii) The administration of the local authority?
3. Has the plan(s) been implemented by the local authority?

*(Guide to LA FOIP, Ch. 4, pp. 125-126)*

[86] The Applicant's submission did not directly address the application of these exemptions. The SCA submitted that the information it withheld pursuant to subsection 16(1)(b) of LA FOIP was comprised of communications of SCA employees who were considered "decision makers," or essential to the decision-making process. It provided my office with information about their titles and roles. It added:

At times, the records included consultations where the views and opinions of SCA employees were sought as to the appropriateness of a particular proposal or suggested action. Some of these conversations discussed past incidents and current state, with the intent of gaining enough understanding and context to formulate prospective future actions and outcomes in response to the developing situation concerning the Applicant. This also includes those records where the information, if disclosed, would permit the ability to draw inferences as to the nature of consultations in question.

At other times, the records included deliberations between SCA employees where discussion or considerations occurred that employees were required to consider certain events and information with a view to making a decision, and to consider options and reasons for and against certain actions. This also includes those records where the information, if disclosed, would permit the ability to draw inferences as to the nature of deliberations in question.

...

The SCA further states that if released, the records could reveal the substance of the consultations or deliberations by the SCA; or would permit the drawing of accurate inferences as to the nature of the actual consultations or deliberations. For these reasons, the SCA is of the view that all exemptions claimed under ss 16(1)(b) should be allowed.

***Subsection 16(1)(b)***

[87] I will consider subsection 16(1)(b) of LA FOIP first. In determining if the first part of the test for the application of this exemption has been met, my office uses the following definitions of “consultation” and “deliberation” set out on pages 115 to 116 of the *Guide to LA FOIP*, Ch. 4:

- “Consultation” means the act of consulting or taking counsel together; deliberation, conference; a conference in which the parties consult and deliberation. A consultation can occur when the views of one or more officers or employees of a local authority are sought as to the appropriateness of a particular proposal or suggested 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. A deliberation can occur when there is a discussion or consideration of the reasons for or against an action. It can refer to discussions conducted with a view towards making a decision.

[88] As I said in [Review Report 119-2022](#) and more recently in [Review Report 099-2024](#), subsection 16(1)(a) of LA FOIP is intended to protect communications such as advice and recommendations developed for the local authority by an advisor, whereas subsection 16(1)(b) of LA FOIP protects communication involving decision makers. “Consultations” involve the seeking of advice, but not the giving of advice.

[89] Regarding the first part of the test, I find that the following information qualifies as a consultation because it involves a SCA decision-maker seeking advice or views of an SCA employee regarding employment terms and conditions and staffing related plans and considerations: Emails Batch 1 pages 172 and 179, Emails Batch 2 pages 215 and 221, Webex Batch 3 pages 11 and 13, Other Documents Batch 1 page 41 (severance 1) and page 57.

[90] The following information qualifies as a deliberation because it involves a deliberation or consideration by a decision-maker of an issue or matter relating to applicable terms and conditions of an individual's employment: Emails Batch 1 page 178, Emails Batch 2 pages 214 and 220, Webex Batch 2, page 2 (second and third sentence), and page 46 (second sentence).

[91] However, I find that the SCA applied subsection 16(1)(b) of LA FOIP to some information that does not qualify as a consultation or deliberation. This view applies to the following information:

- decisions made or instructions provided by SCA employees in the following pages: Emails Batch 1 page 68 (severances 1, 3 and 4); Emails Batch 2 page 224; Other Documents Batch 1 pages 34, 35 and 42
- advice, information sharing, observations, and emails seeking or providing status updates in the following pages: Emails Batch 1 pages 251 (severance 1), 342, 380; Emails Batch 2 page 41 (severance 1); Emails Batch 3 pages 14 and 279; Other Documents Batch 1 pages 38, 45 (severance 2), 48, 49, 52, 53, 55 (sentence 2), 58 and 59
- descriptions of the purpose of a meeting in Emails Batch 1 pages 1 and 8.

[92] The SCA also applied subsection 16(1)(b) of LA FOIP to information that appears in handwritten notes which are not legible or understandable. The SCA submission does not provide any information about the notes to assist my office in deciphering them such as who prepared the notes, the context and what information is captured in them. In the absence of an explanation or information regarding these notes, I find that the SCA has not met the burden of proof pursuant to section 51 of LA FOIP that they include information that qualifies as a consultation or deliberation. This finding applies to the following information: Other Documents Batch 1 pages 31 to 33, 38 and 57.

[93] Therefore, part one of the test for the application of subsection 16(1)(b) of LA FOIP has not been met for the information described in paragraphs [91] and [92] above. There is no need for me to consider part two of the test. I find that the SCA did not properly apply

subsection 16(1)(b) of LA FOIP to this information. Where other exemptions have been applied, I will consider them later in this Report.

[94] Based on a review of the records that included consultations or deliberations, it is apparent that the consultations and deliberations involved officers or employees of the SCA and the individuals consulting qualified as decision-makers given their roles within the SCA administration. For example, the emails and messages involved consultations by the Director of Oncology Pharmacy Services, with the Provincial Manager of Oncology Drug Programs, Access and Analytics, and by the Vice President, Care Services, with General Counsel. Other emails and messages involved deliberations by the Director of Oncology Pharmacy Services.

[95] Therefore, part two of the test for the application of this exemption has been met. Accordingly, I find that the SCA properly applied subsection 16(1)(b) of LA FOIP to some information but not all. Where I have found that subsection 16(1)(b) of LA FOIP was not properly applied and other exemptions, such as subsection 16(1)(d) of LA FOIP have been applied in the alternative, I will consider those other exemptions later in this Report.

[96] It appears that some of the records that I am recommending the SCA release, may contain personal information that is subject to subsection 28(1) of LA FOIP. I note the SCA has not claimed that exemption. My recommendations regarding release are subject to the requirement for the SCA to review those records and continue to withhold any information that may be subject to the mandatory exemption in subsection 28(1) of LA FOIP.

***Subsection 16(1)(d) of LA FOIP?***

[97] Regarding the application of subsection 16(1)(d) of LA FOIP, the SCA stated that it applied this exemption to information relating to a plan being considered for the future management of personnel. It added that certain positions were being re-evaluated and re-assessed and planning was underway to fill those positions. The Applicant's submission did not specifically address this exemption.

[98] Below is an analysis to determine if the three-part test is met.

***1. Do the records contain a plan?***

[99] My office uses the following definition of a “plan” found in *Guide to LA FOIP*, Ch. 4 at page 130:

a formulated and especially detailed method by which a thing is to be done; a design or scheme. A detailed proposal for doing or achieving something; an intention or decision about what one is going to do.

[100] A plan includes detailed information about who is involved and affected, what will happen, when it will happen and the supporting rationale. Where the records do not include information about how work will be carried out, by whom and when, it does not qualify as a plan (see my office’s [Review Report 132-2023](#)).

[101] However, as I stated in my office’s [Review Report 166-2018](#), which considered subsection 17(1)(d) of FOIP, the equivalent to subsection 16(1)(d) of LA FOIP, information that qualifies as a plan can be found in documents that form part of the proposed plan, such as communication documents, if they contain sufficient detail that, if released, would reveal the proposed plan. However, employees’ opinions, feelings and thoughts do not qualify as plans (see my office’s [Review Report LA-2014-004](#)).

[102] It is apparent from a review of the records, that the SCA applied this exemption to information that qualifies as a plan in the following pages:

- Emails Batch 1 page 68 (severance 1) – this information is a statement of intention about a course of action and the timing. While it does not include details about execution, if released, it would reveal the proposed plan.
- Other Documents Batch 1 page 50 - this is a description of actions to be taken in the future and includes information about staff involved and timing of implementation.



[103] The following information does not qualify as a plan as it is advice provided by one SCA employee to other SCA employees. It includes a pros and cons analysis relating to the advice including the author's opinions and thoughts: Emails Batch 1 page 342. It is not necessary for me to consider part two of the test for this information. I find that the SCA did not properly apply subsection 16(1)(d) of LA FOIP to this page. Details of my findings and recommendations are set out in the Appendix.

***2. Does the plan(s) relate to:***

***i) The management of personnel?***

[104] According to the *Guide to LA FOIP*, Ch. 4 page 130, the "management of personnel" refers to all aspects of the management of human resources of a local authority that relates to the duties and responsibilities of employees. This includes staffing requirements, job classification, recruitment and selection, employee salary and benefits, hours and conditions of work, leave management, performance review, training, separation and layoff. It also includes the management of personal service contracts (i.e., contracts of service) but not the management of consultant, professional or other independent contractor contracts (i.e., contracts for service).

[105] Based on a review of the records, it is apparent that the plans described in paragraph [102] above relate to staffing requirements and the duties and responsibilities of roles or positions at the SCA. Therefore, the plan relates to the management of personnel and part two of the test has been met.

***3. Has the plan(s) been implemented by the local authority?***

[106] In order for the third part of this test to be met, the plan(s) cannot *yet* have been implemented. "Implementation" is defined at page 126 of the *Guide to LA FOIP*, Ch. 4, as the point when the implementation of a decision begins. For example, if a local authority decides to go forward with an internal budget cut or restructuring of departments,

implementation commences when this plan of action is communicated to its organizational units.

[107] In order for the third part of the test to be met, the plan(s) cannot yet have been implemented.

[108] In response to questions posed by my office, the SCA stated: “The plan has not been fully implemented, but it is still an active plan.” Based on a review of the records which describe the plan and the SCA’s submission, it is apparent that the plan has not yet been implemented.

[109] As all three parts of the test have been met for some information, I find that the SCA properly applied subsection 16(1)(d) of LA FOIP to some information but not all. Details of my findings and recommendations are set out in the Appendix.

[110] My recommendations regarding release are subject to the requirement for the SCA to review those records and continue to withhold any information that may be subject to the mandatory exemption in subsection 28(1) of LA FOIP.

**6. Did the SCA properly apply subsection 30(2) of LA FOIP?**

[111] The SCA applied subsection 30(2) of LA FOIP to portions of records as set out in the Appendix.

[112] Subsection 30(1) of LA FOIP provides that individuals have a right of access to their own personal information. Subsection 30(2) of LA FOIP gives a head discretion to refuse to disclose to individuals, their own personal information, where it is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for employment or for the awarding of contracts and other benefits by the local authority (*Guide to LA FOIP*, Chapter 6, “Protection of Privacy”, updated February 27, 2023 [*Guide to LA FOIP*, Ch. 6] at p. 252).

[113] Subsection 30(2) of LA FOIP provides:

**30(2)** A head may refuse to disclose to an individual personal information that is evaluative or opinion material compiled solely for the purpose of determining the individual's suitability, eligibility or qualifications for employment or for the awarding of contracts and other benefits by the local authority, where the information is provided explicitly or implicitly in confidence.

[114] My office's *Guide to LA FOIP*, Ch. 6 at pages 252 to 253, states that this provision attempts to address two competing interests: the right of an individual to have access to their personal information and the need to protect the flow of frank information to local authorities so that appropriate decisions can be made respecting the awarding of jobs, contracts, and other benefits.

[115] This exemption applies where the following three-part test is met:

1. Is the information personal information that is evaluative or opinion material?
2. Was the personal information compiled solely for one of the enumerated purposes?
3. Was the personal information provided explicitly or implicitly in confidence?

(*Guide to LA FOIP*, Ch. 6 at pp. 253 to 255)

[116] In its submission, the SCA stated that it applied this exemption to any records that related to the content of employees' letters or emails of complaint or that would reveal the identity of the letters' authors. It stated that the letters were written with explicit or clearly implied requests for confidentiality. It added:

Because the Applicant had verbally stated she would be able to identify the letter writers by their writing style, the Applicant was not provided with any redacted or anonymized versions of the [letters of complaint] (other than what she had already previously received).

[117] I note that the SCA also applied this exemption to meeting notes and email correspondence that is not comprised of letters of complaint but includes references to those letters and their content. The emails and meeting notes at issue also include communications between staff regarding work performance and conduct issues.

[118] The Applicant submitted that portions of the letters of complaint were shared with them and in one case the identity of the author was disclosed to them. They believe that the exemption does not apply to the remaining letters and information about complaints because the information was not treated consistently in a manner that indicated a concern for its protection. Their view is that all of the letters should be treated consistently.

[119] The Applicant also quoted from an email at Emails Batch 3 page 177 where the author refers to the letters of complaint and stated that “Almost all of them were delivered with an expectation of privacy.”

[120] The Applicant also quoted from another email at Email Batch 3 Attachments 4 page 227 which stated that there were other emails outlining how much better morale was in the department after the Applicant’s leave. They feel they should be entitled to access to those emails.

[121] Finally, the Applicant stated:

It should also be noted that *opinion material* should be weighed against employment history (IPC Guide to LA FOIP, Chapter4, *Exemptions from the Right of Access p: 257* Updated 18 Oct 2023).

As supported by the contents of my personnel file (**13. General Personnel Files**), my 15-year record of employment with the Agency is unblemished.

[122] Before I turn to an analysis of the withheld information, I note that the SCA was inconsistent in the way it severed emails dated Emails Batch 1 page 109 dated October 9, 2022, time stamped 9:35 AM and dated October 8, 2022 at 1:26 PM. As portions of these emails were released to the Applicant on Emails Batch 1, page 19, Emails Batch 2 pages

19, 39 and 41, the SCA should release the same portions in the duplicate copies. It would be absurd to withhold this information. Details of my findings and recommendations are set out in the Appendix.

***1. Is the information personal information that is evaluative or opinion material?***

[123] This exemption applies to personal information and therefore I must first decide if the withheld portions of the emails contain the Applicant's personal information. Subsection 23(1)(h) of LA FOIP may be relevant here. It states:

**23(1)** Subject to subsections (1.1) and (2), "personal information" means personal information about an identifiable individual that is recorded in any form, and includes:

...

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

[124] "Opinions" are views or judgements not necessarily based on fact or knowledge. "Views" are particular ways of regarding something, an attitude or opinion. The views or opinions expressed by an individual about another individual are the personal information of the individual they are about [*Guide to LA FOIP*, Ch. 6], at pages 60-61).

[125] "Evaluative" means to have assessed, appraised, to have found or to have stated the number of. "Opinion material" is a belief or assessment based on grounds short of proof; a view held as probable for example, a belief that a person would be a suitable employee, based on that person's employment history. An opinion is subjective in nature and may or may not be based on facts (*Guide to LA FOIP*, Ch. 6, p. 257).

[126] The withheld information is about the Applicant's work performance. Based on a review of the withheld information, it is apparent that it qualifies as evaluative and/or opinion material because it is an assessment or appraisal of the Applicant's work performance or workplace conduct by SCA employees. In some cases, the SCA released the substance of the assessment or appraisal and withheld the name of the author. With some exceptions, part one of the test has been met.

[127] The exceptions are where the information does not qualify as evaluative or opinion information:

Other Documents Batch 1, pages 31 to 32 – the information withheld from these pages is portions of the notes of a meeting dated November 17, 2022, and other undated notes. The notes are difficult to understand in the absence of context or explanation from the SCA. The withheld information does not appear to contain any information that would be considered the personal information of the Applicant or would qualify as evaluative or opinion information. I find that the first part of the test has not been met for this information.

Notes of a meeting in Other Documents, Batch 2 page 12 are in handwriting which is not easily decipherable. The notes do not appear to contain information about the Applicant that qualifies as evaluation or opinion. I find that the first part of the test has not been met for this information.

[128] As part one of the test for the application of this exemption has not been met for the information described above, I find that the SCA did not properly apply subsection 30(2) of LA FOIP to this information. Details of my findings and recommendations are set out in the Appendix.

***2. Was the personal information compiled solely for one of the enumerated purposes?***

[129] The following definitions found in the *Guide to LA FOIP*, Ch. 6 at pages 253 to 254 are relevant here:

- “Compiled” means that the information was drawn from several sources or extracted, extrapolated, calculated or in some other way manipulated.
- “Suitability” means right or appropriate for a particular person, purpose, or situation.
- “Eligibility” means fit and proper to be selected or to receive a benefit; legally qualified for an office, privilege, or status.
- “Qualifications” means the possession of qualities or properties inherently or legally necessary to make one eligible for apposition or office, or to perform a public duty or function.

- “Employment” means the selection for a position as an employee of a local authority.
- “Employment reference” means personal information that is evaluative, or opinion material compiled solely for the purpose of describing an individual’s suitability, eligibility, or qualifications for employment.

[130] The SCA submission on this part of the test stated:

In this matter, the [letters of complaint] were primarily to provide evaluative and opinion comments on the Applicant’s suitability or qualifications for the job position which she held. The [letters of complaint] were created by the authors to provide frank feedback to the Director on the topic of the Applicant’s job performance.

[131] In my office’s [Review Report 010-2018](#) letters of complaint from parents resulted in an investigation into allegations by a School Division. I found that the letters of complaint were compiled solely for determining the individual’s suitability, eligibility or qualifications for employment and that subsection 30(2) of LA FOIP applied.

[132] In support of that finding, I relied on a decision of the Saskatchewan King’s Bench in *Fogal v. Regina School Division No. 4* (2002) [2002 SKQB 92](#) (*Fogal*) which stated that the evaluation of suitability for employment can take place during an employee’s tenure and the provision can apply to unsolicited records such as letters of concern or complaint. *Fogal* was upheld by the Court of King’s Bench in *Britto v. University of Saskatchewan*, [2018 SKQB 92](#).

[133] The circumstances are similar here in that the evaluations were provided during the Applicant’s tenure. Based on a review of the records, it is apparent that they were compiled solely for the purpose of determining the Applicant’s suitability for employment. Therefore, part two of the test has been met.

*3. Was the personal information provided explicitly or implicitly in confidence?*

[134] In confidence usually describes a situation of mutual trust in which private matters are relayed or reported. Information provided in confidence means that the supplier of the information has stipulated how the information can be disseminated.

[135] In order for confidence to be found, there must be an implicit or explicit agreement or understanding of confidentiality on the part of both the local authority and the party providing the information.

[136] Implicitly means that the confidentiality is understood even though there is no actual statement of confidentiality, agreement, or other physical evidence of the understanding that the information will be kept confidential.

[137] Explicitly means that the request for confidentiality has been clearly expressed, distinctly stated, or made definite. There may be documentary evidence that shows that the information was provided on the understanding that it would be kept confidential.

[138] The SCA submitted that there were multiple letters of complaint provided to a SCA director for which it claimed subsection 30(2) of LA FOIP and that in each case the author explicitly requested that the correspondence be held in confidence, or it was implicitly requested based on the tone and content of the concerns outlined in the letter of complaint. It added that there were a number of complaints that included the reasons for the request for confidentiality.

[139] The SCA added:

The context of the time and place in which the [letters of complaint] were written must be remembered. The Applicant's unit was undergoing significant turmoil and strife, to the point that the SCA had conducted an internal workplace assessment and had retained an external mediator to help resolve the workplace conduct. In the course of both of those processes, it had been communicated to staff that their participation in those processes would be kept in confidence. This confidence was required to ensure



- full and frank participation, and it was in this context that the [letters of complaint] were received. A number of the [letters of complaint] referenced the workplace assessment process.
- [140] The SCA concluded that it relied on the letters of complaint to make decisions about employment.
- [141] Based on a review of the letters of complaint, it is apparent that some of the authors expressly requested confidentiality. Where confidentiality was not expressly stated, it is apparent from a review of the letters that the authors were concerned about confidentiality and the potential for retribution if the information was shared in an identifiable way. The circumstances in which the letters of complaint were provided to the SCA, namely the workplace assessment and mediation processes and the promises of confidentiality during those process are also relevant here. The records are not publicly available.
- [142] I have carefully considered the statement made in Email Batch 3 page 177 which was referenced by the Applicant that “Almost all of them were delivered with an expectation of privacy.” While it is accurate to state that almost all of the letters of complaint were delivered with an explicit expectation of confidentiality, where confidentiality was not explicit, based on a review of the records and the surrounding circumstances, it was apparent for the reasons set out above that it was implicit.
- [143] Where the information that qualifies as evaluative information does not appear in letters of complaint, I am also satisfied given the nature of the information and the circumstances surrounding the creation of the records, that the personal information was provided implicitly in confidence.
- [144] I note that subsection 30(2) of LA FOIP is discretionary, as would be an employer’s decision regarding what details to provide to the employee in the context of some employment related matters. The Applicant stated that one complaint and portions of another complaint were provided to them by the SCA. The fact that this information was provided to the Applicant and not excerpts or full copies of the other complaints, does not detract from the SCA’s discretionary right to claim the exemption for the other complaints. However, the Applicant is correct that each record must be treated by the SCA consistently and I am satisfied that it did so in this case.

[145] For these reasons, I am satisfied that the SCA consistently treated the letters of complaint as confidential.

[146] Therefore, I find that the evaluative and opinion information was provided explicitly or implicitly in confidence to the SCA and part three of the test has been met. I find that the SCA properly applied subsection 30(2) of LA FOIP to some information. Details of my findings and recommendations are set out in the Appendix.

[147] It appears that some of the records that I am recommending the SCA release, may contain personal information that is subject to subsection 28(1) of LA FOIP. I note the SCA has not claimed that exemption. My recommendations regarding release are subject to the requirement for the SCA to review those records and continue to withhold any information that may be subject to the mandatory exemption in subsection 28(1) of LA FOIP.

**7. Did the SCA properly apply subsection 28(1) of LA FOIP?**

[148] I will now consider the SCA's application of subsection 28(1) of LA FOIP to personal information of other individuals. I must also consider the impact of three consents to the release of personal information that the Applicant provided to my office.

[149] Section 28 of LA FOIP prohibits the disclosure of personal information unless the individual about whom the information pertains consents to its disclosure or disclosure without consent is authorized by one of the enumerated exceptions in subsection 28(2) or section 29 of LA FOIP (*Guide to LA FOIP*, Chapter 6, "Protection of Privacy", updated February 27, 2023 [*Guide to LA FOIP*, Ch. 6], p. 163).

[150] Subsection 28(1) of LA FOIP provides:

**28(1)** No local authority 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 29.

[151] In order for subsection 28(1) of LA FOIP to apply, the information in question must qualify as “personal information.” I will first consider if the records contain personal information. Then I will turn to the impact of any consents that the Applicant has provided to my office.

[152] Subsection 23(1) of LA FOIP includes a definition of personal information. The SCA’s submission described the information that it treated as personal information. However, it did not identify the provisions in subsection 23(1) of LA FOIP that applied.

[153] The following provisions in subsection 23(1) of LA FOIP may be relevant here:

**23(1)** Subject to subsections (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;

(c) information that relates to health care that has been received by the individual or to the health history of the individual;

...

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

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

...

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual; or

[154] To qualify as personal information pursuant to subsection 23(1) of LA FOIP, the information must identify an individual and be personal in nature. The paragraphs of this subsection also set out a list of examples of the kinds of information that might qualify as personal information.

[155] Subsection 23(2)(b) of LA FOIP may also be relevant here. It states:

23(2) “Personal information” does not include information that discloses:

...

(b) the personal opinions or views of an individual employed by a local authority given in the course of employment, other than personal opinions or views with respect to another individual;

[156] The SCA submitted that it withheld information of individuals other than the Applicant that qualified as personal information. It withheld information about health care services received by an individual or their health history, views that were related to other individuals (other than the Applicant) and the names of individuals where the disclosure would reveal personal information about them.

[157] The Applicant submitted that the three letters of consent they provided to our office will disqualify the application of this exemption in many records.

[158] Based on a review of the records, it appears that information about other individuals’ health history and health care services received is present and qualifies as personal information pursuant to subsection 23(1)(c) of LA FOIP. This information appears on the following pages:

Emails Batch 1: page 199 (severances 1 and 2), Email Batch 3: pages 17, 156, Webex Batch 2 pages 1 (first sentence only), 11, 20 (first sentence) and 46 (1<sup>st</sup> sentence).

[159] The following information contains an opinion about individuals other than the Applicant and therefore qualifies as personal information pursuant to subsection 23(1)(f) of LA FOIP:

Email Batch 2, page 94, Webex Batch 2 pages 22, 28 (but for email address and subject line of email), 41, 47 (second sentence), 54 (second sentence), and Other Documents Batch 2 pages 9 and 20 (severances 2 and 3).

[160] Some of the withheld information is about individuals’ work history, work performance, advancement and work experiences at the SCA. This is the type of information that would appear in a personnel file. It qualifies as employment history information which is personal

information pursuant to subsection 23(1)(b) of LA FOIP. This information can be found on the following pages:

Emails Batch 1: pages 68 (severances 2 and 3), 192, 221, Emails Batch 2: pages 82, 88, 94, 93, 121, Emails Batch 3: pages 4, 138, 210, 211, 216, 259, Webex Batch 2 pages 2, 11, 16, 26, 28, 40, 41, 47 (second sentence), 48, 51, 54, Webex Batch 3 page 4, Other Documents Batch 1 pages 38 (second severance), 48 (sentences 9 and 10), 49 (first and second sentences), 58 (sentences 4 and 5), Other Documents Batch 2 pages 9, and 18 (1<sup>st</sup> severance only).

[161] SCA also claimed that a personal email address in Emails Batch 1 page 199 qualified as personal information. The email in question was sent from a personal email account to two SCA employees despite the fact that it contained work related information. I find that the personal email address qualifies as the author's personal information pursuant to subsection 23(1)(e) of LA FOIP.

[162] The SCA did not explain why a personal email address was being used for work purposes. I have frequently recommended that government institutions and local authorities not use personal email addresses for work related purposes including in my office's [Review Report 101-2017](#) and my office's guidance document titled [Best Practices for Managing the Use of Personal Email Accounts, Text Messaging and Other Instant Messaging Tools](#). I recommend that the SCA develop a policy prohibiting its employees from using personal email addresses for work related activities.

[163] Subject to my comments below regarding the three consents provided to my office by the Applicant, it appears that the individuals to whom the personal information relates in paragraphs [158] to [161] have not consented to its release. Therefore, I find that the SCA properly applied subsection 28(1) of LA FOIP to this information.

[164] The SCA withheld a cell phone number of an SCA employee from Emails Batch 3 at page 216. SCA confirmed that the cell phone number relates to a work issued cell phone. I find that it does not qualify as personal information. In arriving at this finding, I am following

the approach taken in previous reports of my office dealing with the same type of information such as my office's Review Reports [099-2024](#) and [168-2023](#).

[165] Email Batch 1 page 199 (severance 3) is an email that was withheld in its entirety but for the subject line "medical leave." While the email relates to a medical leave, it is not apparent from a review of the from, date, to and the body of the email who the medical leave relates to. In other words, the individuals to whom the medical leave relates are not identifiable. Therefore, with the exception of the personal email address considered in paragraph [161] above, I find that the withheld information does not qualify as personal information.

[166] Emails Batch 3 pages 210 and 211, Other Documents Batch 2 page 3 (second severance), 9, Webex Batch 2, page 47 (first sentence) are observations, opinions and views made by the email author in the course of employment. They are not views with respect to another individual. They include information about a process and an explanation of the process, plans related to staffing and the investigation. I find that subsection 23(2)(b) of LA FOIP applies to this information and therefore it does not qualify as personal information.

[167] Webex Batch 3, page 4 reveals information about the identity of a witness. Previous reports such as my office's Review Report [LA-2013-001](#), which was followed in my office's [Review Report 155-2022](#), have found that the fact that someone was interviewed as part of a workplace investigation does not constitute personal information because that fact is not personal in nature. I find that this information does not qualify as personal information.

[168] The SCA withheld one name from Other Documents Batch 2 page 3 (severance 1) that it released elsewhere in the same notes. I find that it would be absurd to withhold the other name.

[169] Based on a review of Other Documents Batch 1 pages 31 (severances 1 and 3), 32 and Other Documents Batch 2 pages 11 and 12 and given the lack of information surrounding the creation of the notes and their meaning, it appears that no identifiable information of a

personal nature appears on the notes. I find that this information does not qualify as personal information.

[170] Other Documents Batch 1 page 53 is a text message. The first two and the second and third last sentences appear to be about the Applicant and therefore subsection 28(1) of LA FOIP does not apply to them. The remaining information recounts a story or information provided to the author by another person which includes the personal information of another individual and their name. Release of this information would reveal personal information about the other individual and therefore it qualifies as personal information pursuant to subsection 23(1)(k)(i) of LA FOIP.

[171] In conclusion, I have found that the information described in paragraphs [165] to [170] does not qualify as personal information. Therefore, I find that the SCA did not properly apply subsection 28(1) of LA FOIP to this information. Details of my findings and recommendations are set out in the Appendix.

[172] As noted throughout this Report, I am recommending release of records where the SCA did not properly apply a discretionary exemption. However, it is apparent that some of those records may contain the personal information of other individuals which is exempt pursuant to the mandatory exemption in subsection 28(1) of LA FOIP. This information should not be disclosed to the Applicant and therefore my recommendations regarding release are subject to that qualification.

### *Consents*

[173] Before I leave this issue, I must address the impact of the three consents provided to my office by the Applicant. The Applicant stated that they believe that the letters of consent will resolve the application of subsection 28(1) of LA FOIP in many of the records at issue.

[174] Based on a review of the records, it appears that there is information that qualifies as the personal information of these three individuals. The information qualifies as their personal information pursuant to subsection 23(1)(b) of LA FOIP for the following reasons:

- Emails Batch 1: Pages 199 (severances 1 and 2), Webex Batch 2 pages 2 except for the last sentence, 11 and 46 (severance 1) include information about an individual's leave of absence from work. This information qualifies as the individual's employment history information as defined by subsection 23(1)(b) of LA FOIP. Similar information was found to qualify as employment history information in my office's [Review Report 153-2015 Part I](#).
- Emails Batch 2: pages 93, Emails Batch 3.1 page 138 (severance 4), Webex Messages Batch 2: pages 3, 22, 28, 40, 41, 47 (severance 2), Webex Batch 3: page 4, Other Documents Batch 1: page 40, Other Documents Batch 2: page 20 (severance 3) contain information about an individual's workplace conduct, behaviour and workplace complaints which qualifies as their employment history as defined by subsection 23(1)(b) of LA FOIP. Similar information was found to qualify as employment history information in my office's [Review Report 266-2017](#).

[175] Two of the signed consents state:

I, [name redacted], give consent to release any information regarding myself that is included in [Applicant's name redacted] LAFOIP request at the Saskatchewan Cancer Agency.

[176] The other signed consent uses different wording. It states:

I, [name redacted], hereby grant permission to access and all information in a LA FOIP request that would contain my name, initials or nicknames for the direct use for [Applicant's name redacted] in [their] pursuit of any LA FOIP requests [they] may have.

If you have any questions, please reach out at:

[email address redacted] or [ telephone number redacted]

[177] In light of the consents provided to my office, it appears that the individuals to whom this information relates may be willing to consent to the release of their personal information. I must now consider the validity of the consents.



[178] Section 11 of the LA FOIP Regulations sets out the requirements for a valid consent under LA FOIP. It states:

**11(1)** If consent is required by the Act for the collection, use or disclosure of personal information, the consent:

- (a) must relate to the purpose for which the information is required;
  - (b) must be informed;
  - (c) must be given voluntarily; and
  - (d) must not be obtained through misrepresentation, fraud or coercion.
- (2) A consent to the collection, use or disclosure of personal information is informed if the individual who gives the consent is provided with the information that a reasonable person in the same circumstances would require in order to make a decision about the collection, use or disclosure of personal information.
- (3) A consent may be given that is effective for a limited period.
- (4) A consent may be express or implied unless otherwise provided.
- (5) An express consent need not be in writing.
- (6) A local authority, other than the local authority that obtained the consent, may act in accordance with an express consent in writing or a record of an express consent having been given without verifying that the consent meets the requirements of subsection (1) unless the local authority that intends to act has reason to believe that the consent does not meet those requirements.

[179] Based on the wording of the consents, it is not clear that the signatories to the consents understand what specific personal information about them would be disclosed to the Applicant as a result of the consent. This concern is compounded by the fact that the second consent does not refer to the SCA but applies to “any LA FOIP requests [the Applicant] may have.” Therefore, I find that the consents do not meet the requirements of subsection 11(1)(b) of the LA FOIP Regulations.

[180] Further, the SCA needs to be satisfied that the consents were given voluntarily or were not obtained through misrepresentation, fraud or coercion as is required by subsection 11(1)(d)

of the LA FOIP Regulations before it can release personal information based on the consents.

[181] Copies of the consents will be provided to the SCA with a copy of this Report. I recommend that, within 10 days of receipt of this Report, the SCA contact the subject individuals to obtain their informed consent to the release of their personal information. If the individuals provide appropriate consents, I recommend that the SCA, within 30 days of the issuance of this Report, release to the Applicant the personal information to which the consents apply subject to the application of any other exemptions.

**8. Is there information in the records that is non-responsive to the request?**

[182] The SCA claimed that portions of the records were not responsive to the Applicant's request. It claimed that these portions were related to SCA operations and were clearly, separate, distinct and unrelated to the request. Based on a review of the records, and in light of the Applicant's access to information request, I find that the portions claimed by SCA to be non-responsive were not responsive.

[183] However, as I have said in previous reports, including [Review Report 017-2023](#), public bodies should consider releasing non-responsive records. In my blog, "[What About the Non-Responsive Record?](#)", I recommend that public bodies consider releasing non-responsive records, subject to exemptions found to apply.

[184] I will follow the same approach here and recommend that the SCA consider releasing the non-responsive portions of records subject to any exemptions found to apply. Details of my findings and recommendations are set out in the Appendix.

**IV FINDINGS**

[185] I find that I have jurisdiction to conduct this review.

[186] I find that the SCA properly applied subsections 14(1)(c), 21(a), (b), 16(1)(b), (d), 30(2) and 28(1) of LA FOIP to some information but not all.

[187] I find that the SCA properly claimed that some information was not responsive to the request.

## **V RECOMMENDATIONS**

[188] I recommend that the SCA develop a policy prohibiting its employees from using their personal email addresses for work related activities.

[189] I recommend that, within 10 days of receipt of this Report, the SCA contact the individuals who provided the consents that accompany this Report to obtain their informed consent to the release of their personal information.

[190] If the subject individuals provide appropriate consents, I recommend that the SCA, within 30 days of the issuance of this Report, release to the Applicant the personal information to which the consents apply, subject to the application of any other exemptions.

[191] I recommend that the SCA, within 30 days of the issuance of this Report, release, subject to any mandatory exemptions, and withhold information as set out in the Appendix.

[192] I recommend that the SCA, within 30 days of the issuance of this Report, consider releasing any non-responsive information subject to any exemptions that may apply.

Dated at Regina, in the Province of Saskatchewan, this 3<sup>rd</sup> day of December, 2024.

Ronald J. Kruzeniski, K.C.  
A/Saskatchewan Information and Privacy  
Commissioner

Appendix

Batch and Page No.	LA FOIP Exemption Applied	Withheld in full or in part	Description	Commissioner's Findings and Recommendations
<p><b>Emails:</b>  <b>Batch 1</b>, pp. 4, 7 to 9, 14, 15, 19, 20, 44 to 50, 66, 92, 95 to 97, 105, 109 to 112, 113 to 116, 117, 224 to 238, 246, 298, 299, 325, 385 to 387, 390-393, 397 to 398</p>	<p>30(2)</p>	<p>Withheld in part – pp. 4, 14, 15, 19, 20,66, 92, 105, 109 to 112, 113 to 116, 117, 246, 298, 325, 390 to 393</p> <p>Withheld in full – pp. 7 to 9, 44 to 50, 95 to 97, 224 to 238, 299, 385 to 387, 397 to 398</p>	<p>Emails and attachments</p>	<p>30(2) applies to all but for page 109, continue to withhold all but on page 109 release the information that was previously released to the Applicant on Emails Batch 1, page 19, and Emails Batch 2 pages 19, 39 and 41</p>
<p>p. 68</p>	<p>16(1)(b) applied to severance 1, 3 and 4; 16(1)(d) applied to severance 1; 28(1) applied to severance 2; 21(a) applied to severance 4</p>	<p>Withheld in part</p>	<p>Email</p>	<p>28(1) applies to severance 2; 16(1)(b) applies to severance 3 16(1)(d) applies to severance 1; 21(a) applies to severance 4; continue to withhold all</p>
<p>pp. 75, 79 to 82, 87 to 88, 215 to 218, 318, 404</p>	<p>14(1)(c)</p>	<p>Withheld in part - pp. 75, 215, 216, 218, 404;</p> <p>Withheld in full - pp. 79 to 82, 87 to 88, 217 to 218, 318</p>	<p>Emails and attachments</p>	<p>14(1)(c) applies to pp. 75, 215 to 218, 318 and 404; continue to withhold</p> <p>Absurd result applies to pp. 79 to 82, 87 to 88; release</p>
<p>p. 172</p>	<p>16(1)(b) and (d)</p>	<p>Withheld in part</p>	<p>Email</p>	<p>16(1)(b) applies; continue to withhold</p>

p. 178	16(1)(b)	Withheld in part	Email	16(1)(b) applies; continue to withhold
p. 179	16(1)(b)	Withheld in part	Email	16(1)(b) applies; continue to withhold
p. 192	28(1), 16(1)(b)	Withheld in part	Email	28(1) applies to all; continue to withhold
pp. 199, 221	28(1)	Withheld in part	Email	28(1) applies to pages 199 (severances 1 and 2) and personal email address in severance 3 and 221; continue to withhold; 28(1) does not apply to page 199 (severance 3) except for personal email address; release but continue to withhold personal email address
pp. 251, 401, 403, 407	16(1)(b) applied to pp. 251 severance 1, 401, 403, 407 severance 1, 30(2) applied to pp. 251 severances 2 and 3, 401, 403, 407	Withheld in part – pp. 251, 401, 407  Withheld in full – p. 403	Emails	30(2) applies to pp. 251 second severance, 401, 403 and 407; continue to withhold; 16(1)(b) does not apply to p. 251 (first severance); release
p. 342	16(1)(b), (d), 30(2)	Withheld in part	Email	16(1)(b) and (d) do not apply; 30(2) applies; continue to withhold
p. 380	16(1)(b)	Withheld in part	Email	16(1)(b) does not apply; release
<b>Emails:</b> <b>Batch 2</b> , pp. 1 to 6, 10 to 11, 19 to 20, 39 to 40, 156, 194, 311 to 312	30(2)	Withheld in part	Email	30(2) applies; continue to withhold
p. 315	30(2) and 28(1) applied	Withheld in part	Email	28(1) applies; continue to withhold
pp. 41 to 42, 76 to 77	16(1)(b) applied to p. 41 severance 1, 30(2)	Withheld in part	Email	16(1)(b) does not apply to page 41 (severance 1); release; 30(2) applies to remaining information

				on pp. 41 and 42, 76, 77; continue to withhold
pp. 82, 88, 93	28(1)	Withheld in part	Email	28(1) applies; continue to withhold
p. 94	16(1)(b), 28(1) were applied to severances 1 and 2; 16(1)(b) and 21(a) was applied to severance 3	Withheld in part	Email	28(1) applies to severances 1 and 2; 21(a) applies to severance 3, continue to withhold
pp. 103, 110 to 113, 116, 117, 118, 258 to 261, 263, 264 to 268, 270, 271 to 274, 276 to 279, 280 to 284, 286, 288, 289 to 290, 292 to 293, 295 to 310	14(1)(c)	Withheld in part - pp. 103, 258 to 263 to 268, 271 to 274, 280 to 284, 286, 288, 289, 290, 292, 293, 295 to 310, Withheld in full - pp. 110 to 113, 116 to 118, 270, 276 to 279,	Emails and attachments	14(1)(c) applies to pp. 103, 258, 259 (but for image), 264 (but for image), 265 (but for image), 266 (but for image), 271, 272 (but for image), 273 (but for image), 274, 280 (but for image), 281 (but for image), 286, 288, 289 to 290, 292, 293, 295 to 310; continue to withhold 14(1)(c) does not apply to pp 110, 112, 113, 116 to 118, 259 (image), 260, 261, 263, 264 (image), 265 (image). 266 (image), 267, 268, 270, 272 (image), 273 (image), 276, 277, 278, 279, 280 (image), 281 (image), 282 to 284, release Release p. 111 on the basis of absurd result
p. 121	28(1), 14(1)(c)	Withheld in part	Email	28(1) applies; continue to withhold
pp. 214 to 215, 220 to 221, 224	16(1)(b)	Withheld in part	Email	16(1)(b) applies to pp. 214 to 215, 220 to 221; continue to withhold; 16(1)(b) does not apply to page 224; release
pp. 239, 336	16(1)(b), 21(a) applied to p.	Withheld in part	Email	21(a) applies to page 239; 21(a) applies to

	239; 16(1)(b) and 21(a) applied to p. 336 severance 1, 16(1)(b) applied to p. 336 severance 2			page 336 severance 1; continue to withhold; 16(1)(b) does not apply to page 336 severance 2; release
<b>Emails: Batch 3.1, p. 1</b>	16(1)(b), 21(a), 30(2)	Withheld in part	Meeting Message	21(a) applies; continue to withhold
p. 2	14(1)(c), 16(1)(b) applied to severance 1, 14(1)(c), 16(1)(b), 30(2) applied to severance 2	Withheld in part	Email	14(1)(c) applies; continue to withhold
pp. 4 to 5	14(1)(c), 16(1)(b), 21(a)	Withheld in part	Email	21(a) applies; continue to withhold
p. 8	16(1)(b), 21(a), 30(2)		Email	21(a) applies; continue to withhold
p. 9	14(1)(c), 30(2)	Withheld in part	Email	14(1)(c) applies; continue to withhold
pp. 11 to 12	28(1) applied to severance 1, 14(1)(c) applied to severance 2	Withheld in part	Email	28(1) applies to page 11 (severance 1); continue to withhold; 14(1)(c) applies to pages 11 (severance 2) and 12 (severance 1); continue to withhold
p. 14	16(1)(b), 21(a)		Email	21(a) applies; continue to withhold
pp. 16 to 17	14(1)(c), 21(a) applied to page 16, 28(1); applied to page 17	Withheld in part	Email and attachment	14(1)(c) applies to page 16; 28(1) applies to page 17; continue to withhold;
pp. 103 to 104	14(1)(c), 16(1)(b), 21(a)	Withheld in part	Email	21(a) applies to page 103, 14(1)(c) applies to page 104; continue to withhold
pp. 106 to 108	14(1)(c), 21(a)	Withheld in part	Email	14(1)(c) applies; continue to withhold

pp. 110 to 111, 173, 186, 205, 267 to 268, 269, 270, 271 to 272, 274, 276, 278	14(1)(c)	Withheld in part	Emails and letter	14(1)(c) applies to pp 110, 173, 186, 205, 267 to 268, 269, 270, 271 to 272, 274, 276, 278; continue to withhold
pp. 112 to 113	16(1)(b), 21(a)		Email	21(a) applies; continue to withhold
p. 117	16(1)(b), 21(a)		Email	21(a) applies; continue to withhold
p. 121	16(1)(b), 21(a)		Email	21(a) applies; continue to withhold
pp. 125, 127 to 128	21(a)		Email	21(a) applies; continue to withhold
pp. 136 to 139	30(2) applied to all; 28(1) applied to page 138 severance 4	Withheld in part	Emails	28(1) applies to page 138 (severance 4); continue to withhold; 30(2) applies to pages 136 to 138; continue to withhold
p. 140	14(1)(c), 21(a)	Withheld in part	Email	14(1)(c) applies; continue to withhold
pp. 141 to 150, 221 to 222, 224, 245 to 255	30(2)	Withheld in part	Emails	30(2) applies, continue to withhold
pp. 151 to 153	14(1)(c), 30(2)	Withheld in part	Email	14(1)(c) applies, continue to withhold
pp. 155, 156	16(1)(b), 21(a) applied to page 155; 28(1) applied to page 156	Withheld in part	Email	28(1) applies to page 156, continue to withhold; 21(a) applies to remaining; continue to withhold
p. 158	14(1)(c), 16(1)(b), 21(a), 30(2)	Withheld in part	Email	21(a) applies; continue to withhold
p. 160	14(1)(c), 16(1)(b), 21(a)	Withheld in part	Email	14(1)(c) applies; continue to withhold
p. 161	14(1)(c), 16(1)(b), 30(2) applied to severance 1; 14(1)(c) and 16(1)(b) applied to severance 2	Withheld in part	Email	14(1)(c) applies; continue to withhold



pp. 162 to 163	14(1)(c), 28(1) applied to severances 1 and 2; 14(1)(c) and 30(2) applied to severance 3	Withheld in part	Email	14(1)(c) applies; continue to withhold
pp. 164 to 170	14(1)(c), 21(a) applied to p. 164 severances 1 and 2, 14(1)(c) 16(1)(b), 21(a), 30(2) applied to p. 164 severance 3, 14(1)(c) and 21(a) applied to pp. 165 to 170	Withheld in part	Email	21(a) applies; continue to withhold
pp. 210 to 211	14(1)(c), 28(1), 30(2)	Withheld in part	Email	28(1) does not apply; 14(1)(c) applies; continue to withhold
p. 212	14(1)(c), 21(a),	Withheld in part	Email	14(1)(c) applies; continue to withhold
p. 214	14(1)(c), 21(a) applied to severance 1, 14(1)(c), 21(a), 28(1) applied to severances 2 and 3	Withheld in part	Email	14(1)(c) applies; continue to withhold
p. 216	28(1) applied to severance 1, 14(1)(c), 16(1)(b), 28(1) applied to severances 2 and 3	Withheld in part	Email	28(1) does not apply to cell phone number; release; 14(1)(c) applies to remaining information; continue to withhold
pp. 259 to 260	14(1)(c), 28(1)	Withheld in part	Email	28(1) does not apply; 14(1)(c) applies; continue to withhold
p. 279	14(1)(c), 16(1)(b), 30(2)	Withheld in part	Email	14(1)(c) applies; continue to withhold
<b>Email Attachments:</b>	30(2)	Withheld in part	Emails	30(2) applies; continue to withhold,

<b>Batch 3.2, pp. 1 to 59</b>				
p. 34	14(1)(c), 16(1)(b), 30(2)	Withheld in part	Message	14(1)(c) applies; continue to withhold
<b>Webex Messages: Batch 2, p. 2</b>	28(1), 16(1)(b)	Withheld in part	Message	28(1) applies to first sentence; continue to withhold; 16(1)(b) applies to second and third sentence; continue to withhold
pp. 3, 5, 11, 16, 28, 41, 51, 54	28(1)	Withheld in part	Messages	28(1) applies to pages 3, 11, 16, 28, 41, 51, 54; continue to withhold; 28(1) does not apply to page 5; release
p. 22	30(2) applied to severance 1, 28(1) applied to 2 <sup>nd</sup> line 1 <sup>st</sup> redaction, remaining redactions 30(2), 28(1)	Withheld in part	Messages	30(2) and 28(1) apply; continue to withhold
pp. 33, 34, 35	30(2)	Withheld in part	Messages	30(2) applies; continue to withhold
p. 40	28(1) and 30(2)	Withheld in part	Messages	28(1) applies; continue to withhold
p. 46	28(1), 16(1)(b)	Withheld in part	Messages	28(1) applies to first sentence; continue to withhold; 16(1)(b) applies to second sentence; continue to withhold
pp. 47, 48	28(1), 14(1)(c)	Withheld in part	Messages	28(1) applies to pages 21 (second sentence) and 22; continue to withhold; 28(1) does not apply to page 21 (first sentence); 14(1)(c) applies to page 21 (first sentence); continue to withhold
p. 49	16(1)(b)	Withheld in part	Messages	16(1)(b) does not apply; release
<b>Webex Messages:</b>	14(1)(c), 21(a)	Withheld in part	Message	14(1)(c) applies; continue to withhold

<b>Batch 3, pp. 2, 3</b>				
p. 4	28(1)	Withheld in part	Message	28(1) applies; continue to withhold
pp. 6, 7	14(1)(c), 21(a)	Withheld in part	Message	14(1)(c) applies; continue to withhold
pp. 11, 13	16(1)(b), 30(2)	Withheld in part	Message	16(1)(b) applies; continue to withhold
<b>Other Documents: Batch 1, pp 1 to 29</b>	14(1)(c)	Withheld in full	Investigation Notes	14(1)(c) does not apply; release
pp. 31 to 33	16(1)(b), 30(2), 28(1)	Withheld in part	Notes	16(1)(b) does not apply; 30(2) applies to page 33; continue to withhold; 28(1) does not apply to page 31 (severances 1 and 3); release; 28(1) applies to pages 31 (severance 2) and 32; continue to withhold
pp. 34, 35	16(1)(b), 30(2)	Withheld in part	Notes	16(1)(b) does not apply; 30(2) applies; continue to withhold
pp. 36, 37	30(2)	Withheld in part	Notes	30(2) applies; continue to withhold
p. 38	16(1)(b), 14(1)(c), 28(1)	Withheld in part	Notes	14(1)(c) does not apply; 16(1)(b) does not apply; 28(1) applies to second severance; release all but second severance
p. 40	28(1), 16(1)(b), 14(1)(c)	Withheld in part	Notes	14(1)(c) applies; continue to withhold
p. 41	16(1)(b) applied to severance 1; 16(1)(b) and 21(a) applied to severance 2	Withheld in part	Notes	16(1)(b) applies to severance 1; 21(a) applies to severance 2; continue to withhold
p. 42	16(1)(b), 14(1)(c)	Withheld in full	Notes	16(1)(b) does not apply; 14(1)(c) does not apply, release
pp. 43, 44	Non-responsive	Withheld in part	CEO Update	Non-responsive, release subject to exemptions

p. 45	16(1)(b) and non-responsive	Withheld in part	CEO Update	Non-responsive applies to severance 1; release subject to exemptions; 16(1)(b) does not apply to severance 2; release
pp. 48, 49	16(1)(b) and 28(1)	Withheld in part	Text messages	16(1)(b) does not apply to pp. 48 and 49; 28(1) applies to p. 48 (sentences 9, 10, and information about health of employee); 28(1) applies to page 49 (first and second sentence), continue to withhold and release remainder
p. 50	16(1)(b), (d)	Withheld in part	Text Message	16(1)(b) does not apply; 16(1)(d) applies; continue to withhold
pp. 52, 59	16(1)(b)	Withheld in part	Text Message	16(1)(b) does not apply; release
p. 53	16(1)(b), 28(1)	Withheld in part	Text Message	16(1)(b) does not apply; 28(1) does not apply to the first two and the second and third last sentences; release; 28(1) applies to the remaining information; continue to withhold
p. 55	16(1)(b), 21(a)	Withheld in part	Text Message	21(a) applies to sentence 1; continue to withhold, 16(1)(b) and 21(a) do not apply to remaining, release
pp. 57, 58	16(1)(b), 28(1)	Withheld in part	Text Messages	16(1)(b) applies to page 57; continue to withhold; 16(1)(b) does not apply to page 58; 28(1) applies to page 58 (sentences 4 and 5); continue to withhold and release remaining
p. 61	16(1)(b), 30(2), [NB 21(a) was claimed for	Withheld in part	Text Messages	21(a) applies to the first sentence; 21(a), 16(1)(b) and 30(2) do not apply to second sentence, continue to withhold first

	duplicate at page 55]			sentence and release second sentence
p. 62	16(1)(b), 14(1)(c)	Withheld in part	Text Messages	14(1)(c) applies; continue to withhold
<b>Other Documents: Batch 2, p. 1</b>	14(1)(c), 16(1)(b), 21(a), (b), 30(2)	Withheld in part	Notes	21(a) applies; continue to withhold
p. 2	14(1)(c), 16(1)(b), 21(a), (b)	Withheld in part	Notes	14(1)(c) applies; continue to withhold
p. 3	28(1) and non-responsive	Withheld in part	Notes	28(1) does not apply, release; continue to withhold non-responsive subject to exemptions
pp. 4 to 7	16(1)(b), 21(a), (b), 30(2)	Withheld in part	Notes	21(a) applies; continue to withhold
p. 8	14(1)(c), 16(1)(b), 21(a), (b), 30(2)	Withheld in part	Notes	21(a) applies; continue to withhold
p. 9	14(1)(c), 16(1)(b), 21(a), (b), 28(1), non-responsive	Withheld in part	Notes	28(1) applies to severance 1; 14(1)(c) applies to severance 2; non-responsive applies to severance 3, release subject to exemptions
pp. 10 to 11	14(1)(c), 16(1)(b), 21(a)&(b), 28(1), 30(2), Not responsive	Withheld in part	Notes	Non-responsive and 21(a) applies to page 10; non-responsive applies to page 11 where it was claimed; release subject to exemptions; 28(1) does not apply to page 11; release the information withheld pursuant to subsection 28(1)
pp. 12 to 15	28(1) and 30(2) applied to page 12; 14(1)(c), 16(1)(b), 21(a), (b) and 30(2) applied to pp 13 to 15	Withheld in part	Notes	28(1) and 30(2) do not apply to page 12; release; 14(1)(c) applies to pages 13, 14 and 15; continue to withhold

pp. 16 to 17	14(1)(c), 16(1)(b), 21(a), (b)	Withheld in part	Notes	14(1)(c) applies; continue to withhold
pp. 18 to 19	14(1)(c), 28(1) applied to first redaction; 14(1)(c) and 30(2) applied to second redaction	Withheld in part	Notes	14(1)(c) applies; continue to withhold
p. 20	14(1)(c), 16(1)(b), 21(a), (b), 30(2) applied to first and fourth redactions; 28(1) applied to second and third redaction	Withheld in part	Notes	28(1) applies to severances 2 and 3; continue to withhold; 14(1)(c) applies to severances 1 and 4; continue to withhold
pp. 21 to 24	14(1)(c), 21(a), (b)	Withheld in part	Notes	14(1)(c) applies; continue to withhold
<b>Other Documents: Batch 3</b> , pp. 9 to 11	14(1)(c), 21(a)	Withheld in part	Notes on policy	14(1)(c) applies; continue to withhold
pp. 12 to 16	14(1)(c), 21(a)	Withheld in part	Typed Notes	14(1)(c) applies; continue to withhold
pp. 17, 19	14(1)(c), 21(a)	Withheld in part	Typed Notes	14(1)(c) applies; continue to withhold
p. 20	21(a), (b), 30(2)	Withheld in part	Notes	21(b) applies; continue to withhold
<b>Other Documents: Report Final</b>	14(1)(c), 21(a), (b)	Withheld in full	HR Report	14(1)(c) applies; continue to withhold