



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 174-2025

City of Regina

April 2, 2026

Summary:

The Applicant submitted an access to information request under *The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)* to the City of Regina (City). The City responded to the Applicant by providing them with access to records but refusing access to portions of those records.

The Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC). The Commissioner found that the City properly applied sections 16(1)(a) (advice, proposals, recommendations, analyses or policy options developed by or for the local authority), 16(1)(b) (consultations or deliberations involving employees of the local authority), 21(a) (solicitor-client privilege), 28(1) (third party personal information) and 30(2) (evaluative or opinion material compiled for determining suitability, eligibility or qualifications for employment) of *LA FOIP* in most cases. The Commissioner also found that pages/records identified by the City are non-responsive to the access request and should not be disclosed.

The Commissioner found that the City did not properly apply sections 14(1)(d) (be injurious to the local authority in the conduct of anticipated legal proceedings), 16(1)(a), 16(1)(b), 16(1)(d) (plans that relate to the management of personnel or the administration of the local authority) or 30(2) of *LA FOIP* to pages 1 and 2 of **Record 81** and the instant message time stamped 3/28 9:06am on page 1 of **Record 102**. The Commissioner found that the City did not properly apply sections 14(1)(d) and 30(2) of *LA FOIP* to pages 2 to 4 of **Record 111**. The Commissioner recommended the release of those pages within 30 days of this Report being issued. The Commissioner recommended that the City continue to withhold the pages set out in the Appendix, including the non-responsive records.

I BACKGROUND

[1] On April 30, 2025, the City of Regina (City) received the following handwritten access to information request from the Applicant:

All text message from City of Regina Cellular phones, Emails, Teams meeting messages + notes, Minutes from all meetings and investigations as well as all handwritten notes (Whether I was present or not) [with respect to]:

- City Employee #1
- City Employee #2
- City Employee #3
- City Employee #4
- City Employee #5
- City Employee #6
- City Employee #7
- City Employee #8
- City Employee #9
- City Employee #10
- City Employee #11

All Q&A from investigations.

All medical assessments and correspondence with any of my medical professionals

Any correspondence with:

Individual #1

Individual #2

Individual #3

Individual #4

Corporate Information Governance regarding my Covid-19 vaccination declaration including internal communications proving date of destruction.

[2] The Applicant specified the time period to range from January 2020 to the present. The Applicant also requested that any fees related to the access request be waived.

[3] On May 2, 2025, the City verbally clarified the access request with the Applicant and confirmed the discussion in writing on that same day. The City waived the \$20 application fee and specified the Applicant's access request now involved the following:

Fire Department & Human Resources

Time period: January 2020 to April 30, 2025

- All medical assessments and correspondence with any of my medical professionals
- Copies of my Covid-19 vaccination declaration. If the record no longer exists, then records that include communications with proof of date of destruction and evidence of destruction.
- Minutes & Q&As from all investigations related to me as well as all handwritten notes (whether I was present or not):

Employees: Fire & Protective Services:

City Employee #1,
City Employee #2,
City Employee #3,
City Employee #4,
City Employee #9,
City Employee #10,
City Employee #11

People & Organizational Culture:

Regina City Employee #5,
Regina City Employee #6,
Regina City Employee #7,
Regina City Employee #8

[4] The City responded to the Applicant's access request in a letter dated June 26, 2025. The City provided access to the records but some of the information was redacted pursuant to sections 14(1)(d), (f), 16(1)(a), (b), (c), (d), 21(a), (b), (c), 28(1) and 30(2) of *The Local Authority Freedom of Information and Protection and Privacy Act*¹ (LA FOIP).

[5] The Applicant requested this office perform a review on July 9, 2025.

[6] On October 10, 2025, the Office of the Information and Privacy Commissioner (OIPC) notified the City and the Applicant that OIPC would be undertaking the review.

¹ [*The Local Authority Freedom of Information and Protection of Privacy Act*](#), S.S. 1990-91, c. L-27.1, as amended.

[7] On December 11, 2025, the City provided OIPC with a copy of its record and index of records (index). It did not provide consent to OIPC to share the index with the Applicant.

[8] On February 20, 2026, the City provided OIPC with its submission. The City did not provide consent to OIPC to share its submission with the Applicant.

[9] The Applicant did not provide a submission to OIPC.

II RECORDS AT ISSUE

[10] There are 112 separate records at issue that include 737 pages in total. Each record is in either a portable document (PDF) or in Microsoft Excel format. Records 18, 68, 70 to 75, 79, 80, 85, 87, 89, 90, 94, 96, 97, 100, 108, 109 were all released in full which amounted to a total of 104 pages that were disclosed to the Applicant in full. Going forward, we number each record we now deal with as Record 1, Record 2, Record 3, etc. in this Report.

[11] The PDFs consist mostly of emails and attachments. Some PDFs are spreadsheets regarding COVID testing.

[12] OIPC has outlined its conclusive findings in an Appendix to this Report.

III DISCUSSION OF THE ISSUES

1. Jurisdiction

[13] The City is a “local authority” as defined by section 2(1)(f)(i) of *LA FOIP*. OIPC has jurisdiction and is undertaking this review pursuant to PART VI of *LA FOIP*.

2. Did the City properly apply section 16(1)(b) of LA FOIP?

[14] The City applied section 16(1)(b) of *LA FOIP* to the majority of the pages within **Records 1 to 4, 59 to 67, 69, 76 to 78, 81 to 84, 86, 88, 91 to 93, 95, 98 to 99, 101 to 107, 110 and 112.**

[15] Before proceeding further, OIPC noted that the City applied section 16(1)(b) of *LA FOIP*, with other exemptions, to a portion of page 120 of **Record 4**. The redacted portion was the body of an email timestamped 10:55 a.m. The OIPC review revealed that the City released a copy of this email, in its entirety, to the Applicant at page 113 of Record 4. There will be no consideration of whether section 16(1)(b) of *LA FOIP* or any other exemption applies to page 120 of **Record 4**. Since the email at page 120 of **Record 4** is identical in all material respects to the email at page 113 of **Record 4**, the City does not have to release it anew.²

[16] Section 16(1)(b) of *LA FOIP* provides as follows:

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;

[17] OIPC uses the following two-part test to determine if a local authority has properly applied section 16(1)(b) of *LA FOIP*:³

1. Does the record contain consultations or deliberations?
2. Do the consultations or deliberations involve officers or employees of the local authority?

² [Kasprick v Saskatchewan Power Corporation](#), 2025 SKKB 139 at paragraph [65].

³ OIPC [Review Report 107-2024](#) at paragraph [36].

[18] Relevant definitions include:⁴

- “Consultation” means the act of consulting or taking counsel together, or a deliberation or conference in which the parties consult and deliberate. 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. It can include consultations about prospective future actions and outcomes in response to a developing situation. It can also include past courses of action. For example, where an employer is considering what to do with an employee in the future, what has been done in the past can be summarized and would qualify as part of the consultation or deliberation.
- “Deliberation” means the act of deliberating (to deliberate: to weigh in mind; to consider carefully with a view to a decision; to think over). It is the careful consideration with a view to coming to a decision, and the consideration and discussions of the reasons for and against a measure by several counsellors. 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.
- “Involving” means including. There is nothing in the exemption that limits the exemption to participation only of officers or employees of a local authority. Collaboration with others is consistent with the concept of consultation.
- “Employee” means an individual employed by a local authority and includes an individual retained under a contract to perform services for the local authority.
- The term “officer” is a high ranking individual within the local authority who exercises management and administrative functions, and who derives their authority either from statute or from council.

[19] The Saskatchewan King’s Bench has provided guidance that the term “deliberation” might suggest an intent to decide while “consultations” may occur at an early stage of decision-making:⁵

[67] I accept that the concept of deliberation might suggest an intent to decide. Consultation appears to be a broader term, and need not have that objective,

⁴ OIPC [Review Report 121-2025](#) at paragraphs [42] to [43].

⁵ [Tarasoff v. Saskatoon \(City\)](#), 2025 SKKB 41 at paragraph [67].

though the definition advanced by the Commissioner suggests that such an objective might be necessary. Consultation might reasonably occur at such an early stage of decision-making that it equates to information gathering to better inform proposal-development. If the Legislature intended to exclude discussions with persons that might not lead to decisions, it would have been a simple matter to include that notion in s. 16. It did not do so.

[Emphasis added]

[20] The City asserted that the records to which it applied section 16(1)(b) of *LA FOIP* contain consultations and deliberations between three of its departments: human resources, fire protective services and solicitor’s office. The consultations and deliberations all involve officers or employees of the City.

[21] Upon review, OIPC confirmed that the list of Records at paragraph [14] above are PDFs that include email exchanges involving employees of the City. The email exchanges include consultations regarding one ongoing personnel matter. Contents of the emails include the reporting of the personnel matter, discussions regarding what steps to address the personnel matter, and discussions on the drafting and wording of correspondence in connection with the personnel matter. Such content qualifies as “consultations”. Below is a table that sets out examples of consultations that appear in the records:

Record #	Page(s)	Description
1	2	Email between Assistant Chief and Deputy Chief regarding an absence issue. Contents qualify as “information gathering” regarding the personnel matter.
2	7 to 10, 56 to 57, 60 to 64, 72 to 73.	Emails between City employees regarding the drafting and wording of letters regarding the personnel matter. Includes actual drafts of letters that are the focus of the consultation.
59	1	Email from Human Resources Consultant to Deputy Chief with respect to the personnel matter and attendance issues.
66	1 to 3	Email between Deputy Chief and Human Resources Business Partner over the drafting and wording of a letter.
91	1 to 2	Email between City employees. One employee sought advice (consultation) from another on drafting of a message.

[22] The OIPC review found the content qualifies as consultations involving employees/officers of the City.⁶ Therefore, both parts of the two-part test are met, save for the following exceptions:

- pages 3 to 7, 10 to 11, 14 to 17 of **Record 1**;
- pages 1 to 6, 11 to 13, 52 to 55 of **Record 2**;
- pages 19 to 21 of **Record 3**; and
- page 1 of **Record 110**

The pages listed directly above are drafts of typed notes from meetings that took place between 2023 and 2025 with the Applicant in attendance. The notes are transcriptions of the meetings. These pages do not qualify as consultations or deliberations with respect to the personnel matter. As such, the first part of the two-part test is not met and therefore, section 16(1)(b) of *LA FOIP* does not apply to these pages. The City also applied the exemptions in sections 16(1)(d), 14(1)(d) and 30(2) of *LA FOIP* to these pages, so this analysis will be considered later in this Report.

[23] Further, page 1 of **Record 102** cannot qualify as a “consultation” or “deliberation”. This is an instant message time stamped 3/28 9:06am from one City employee to another. The email is simply a request that a task be completed. The first part of the two-part test is not met and the exemption in section 16(1)(b) of *LA FOIP* cannot properly apply. This document will be considered in our review of the application of the exemptions in sections 16(1)(a), (d), 14(1)(d) and 30(2) of *LA FOIP* later in this Report.

⁶ The City applied section 14(1)(f) of *LA FOIP* to page 19 of **Record 1**. Since OIPC finds that section 16(1)(b) of *LA FOIP* applies to this page, there is no need to consider section 14(1)(f) of *LA FOIP* to page 19 of **Record 1**.

3. Did the City properly apply section 16(1)(a) of LA FOIP?

[24] The City applied section 16(1)(a) of *LA FOIP* in instances where it also applied section 16(1)(b) of *LA FOIP*. Where section 16(1)(b) of *LA FOIP* applies, there is no need to reconsider these pages. Therefore, OIPC will consider if the City properly applied section 16(1)(a) of *LA FOIP* to the pages in **Records 62 to 66, 78, 81, 83 and 95**.

[25] Section 16(1)(a) of *LA FOIP* provides:

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

(a) advice, proposals, recommendations, analyses or policy options developed by or for the local authority;

[26] OIPC uses the following two-part test to determine if section 16(1)(a) of *LA FOIP* applies:⁷

1. Does the information qualify as advice, proposals, recommendations, analyses, or policy options?
2. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for the local authority?

[27] The City submitted that it applied the exemptions in section 16(1)(a) of *LA FOIP* to communications developed by and for the City. The City does not specify whether the communications qualified as advice, proposals, recommendations, analyses or policy options. The OIPC review agreed that the information within the pages of **Records 62 to 66, 78, 81, 83 and 95** constitutes “advice,” “recommendations,” or “analyses” as used by this office in past reviews:⁸

- “Advice” is guidance offered by one person to another. It can include the analysis of a situation or an issue that may require action and the presentation of options for future action, but not the presentation or simple listing of facts.

⁷ OIPC [Review Report 192-2024](#) at paragraph [76].

⁸ OIPC [Review Report 060-2025](#) at paragraph [46].

- A “recommendation” is a specific piece of advice about what to do, especially when given by an official; it is a suggestion that someone should choose a particular option that is thought to be particularly good or meritorious.
- “Analyses” are detailed examinations of the elements or structure of something; an “analysis” is the process of separating something into its constituent elements for consideration.

[28] An example of *advice* in this case includes the emails in **Record 62**, where a City human resources employee provided an opinion to the Deputy Chief with respect to the commencement of a disciplinary investigation. Since the advice was developed by and for the City, both parts of the test are met.⁹

[29] An example of *recommendations* includes the entirety of **Record 78** where a City human resources employee advised the Deputy Chief on sample questions and topics for a disciplinary hearing. These recommended questions were developed by and for the City, meeting both parts of the test.

[30] An example of *analysis* occurs on pages 5 to 10 of **Record 81**. In this instance the City sought the advice and opinion of a psychologist. The response involved complex analysis of the facts as relayed by the City regarding the Applicant. The psychologist provides responses to the questions. The analysis on pages 5 to 10 were developed for the City, meeting both parts of the test.

[31] There are two exceptions to the application of the exemption in section 16(1)(a) of *LA FOIP*. The first is pages 1 and 2 of **Record 81**. These pages reveal an email between the City and a psychologist where they discussed whether a mandated task had been completed. The content does not qualify as advice, proposals, recommendations, analyses and/or policy options. As such, the redacted content on pages 1 and 2 of **Record 81** do not meet the first part of the two-part test for section 16(1)(a) of *LA FOIP*. Since the City also

⁹ The advice, proposals, recommendations, analyses and/or policy options must have been created either within the local authority, or even outside the local authority, for the sole use of the local authority and at its request. See OIPC [Review Report 142-2024](#) at paragraph [29].

applied sections 14(1)(d) and 30(2) of *LA FOIP* to these two pages this will be considered later in this Report.

[32] The second exception is found at page 1 of **Record 102**. This is an instant message time stamped 3/28 9:06am from one City employee to another. One City employee asks another to complete a task. Such information can not qualify as advice, proposals, recommendations, analyses and/or even policy options. As such, the redacted content on page 1 of **Record 102** does not meet the first part of the two-part test for section 16(1)(a) of *LA FOIP*. The City also applied sections 16(1)(d), 14(1)(d) and 30(2), so this instant message will be considered later in this Report.

4. Did the City properly apply section 16(1)(d) of *LA FOIP*?

[33] In paragraph [22] of this Report, there was a finding that the City did not properly apply section 16(1)(b) of *LA FOIP* to the typed transcriptions of meetings with the Applicant:

- Pages 3 to 7, 10 to 11, 14 to 17 of **Record 1**;
- Pages 1 to 6, 11 to 13, 52 to 55 of **Record 2**;
- Pages 19 to 21 of **Record 3**; and
- Page 1 of **Record 110**.

[34] The City also applied section 16(1)(d) of *LA FOIP* to these pages, as it did to page 1 of **Record 102**.

[35] Section 16(1)(d) of *LA FOIP* provides:

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

...

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

[36] OIPC uses the following three-part test to determine if section 16(1)(d) of *LA FOIP* applies:¹⁰

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?

[37] A “plan” is a formulated and especially detailed method by which a thing is to be done. A plan can include a design or scheme, a detailed proposal for doing or achieving something, as well as an intention or decision about what one is going to do.¹¹

[38] The OIPC review revealed that the pages in paragraph [33] do *not* contain a plan or plans. They are meetings notes and transcriptions of those notes by City employees with respect to meetings that took place between 2023 and 2025 in which the Applicant was in attendance. The purpose of the meetings was to discuss the Applicant’s job performance and matters connected to the Applicant’s ability to perform the job. Since the first part of the three-part test is not met, the exemption in section 16(1)(d) of *LA FOIP* cannot apply to the pages listed in paragraph [33].

[39] Similarly, the instant message timestamped 3/28 9:06am on page 1 of **Record 102** also does not contain a plan or plans. It is merely one City employee requesting another employee to complete a task. Since the first part of the three-part test is not met, the exemption in section 16(1)(d) of *LA FOIP* cannot apply to page 1 of **Record 102**.

¹⁰ OIPC [Review Report 007-2024](#) at paragraph [25].

¹¹ *Ibid*, at paragraph [27].

5. Did the City properly apply section 14(1)(d) of *LA FOIP*?

[40] The City applied the exemption in section 14(1)(d) of *LA FOIP* to the following pages:

- Pages 3 to 7, 10 to 11, 14 to 17 of **Record 1**;
- Pages 1 to 6, 11 to 13, 52 to 55 of **Record 2**;
- Pages 19 to 21 of **Record 3**;
- Page 1 of **Record 110**;
- Pages 1 to 2 of **Record 81**;
- page 1 of **Record 102**; and
- pages 2 to 4 of **Record 111**.

[41] Section 14(1)(d) of *LA FOIP* provides:

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

...

(d) be injurious to the local authority in the conduct of existing or anticipated legal proceedings;

[42] OIPC uses the following two-part test to determine if section 14(1)(d) of *LA FOIP* applies:¹²

1. Do the proceedings qualify as existing or anticipated legal proceedings?
2. Could the disclosure of the record be injurious to the local authority in the conduct of the legal proceedings?¹³

[43] Relevant definitions are as follows:

- “Legal proceeding” means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration.¹⁴

¹² OIPC [Review Report 230-2024](#) at paragraph [16].

¹³ OIPC [Review Report 074-2025](#) at paragraph [48] provides that the focus must be on the potential for injury that may be caused to the disclosing body because of an on-going legal process. In that case, the exemption was found to be properly applied because the records related to an anticipated legal proceeding arising from a policy grievance that was in existence when the documents were created.

¹⁴ Section 30(12) of [Canada Evidence Act](#), R.S.C., 1985, c. C-5, as amended.

- “Anticipated” means more than merely possible. Can be equated with expected.
- “Injury” implies damage or detriment. The exemption is designed to protect the local authority from harm in its existing or anticipated legal proceedings.¹⁵

[44] The City submitted that as of February 24, 2026, it expected the Applicant would commence legal proceedings against it. OIPC sought further details from the City. The City provided this office with a fulsome explanation on that date. We cannot reproduce the details because to do so would surely disclose the Applicant’s identity and violate the privacy of this review contrary to section 42(1) of *LA FOIP*. The explanation provided by the City clearly meets the first part of the test in that the City clearly anticipates the Applicant will launch proceedings that are legal in nature at some point in the future.

[45] The City submitted that the information in the records may be used to as a basis for consultation with counsel in preparation of the anticipated legal suit. The City also argued that to release the information regarding the City’s prior investigation and assessment of the employee’s medical condition would be inherently injurious to the City in its ability to respond to the anticipated litigation.

a. Pages/records listed in the first four bullets at paragraph [40]

[46] As described earlier, the pages of records listed in the first four bullets at paragraph [40] are transcriptions by City employees of meetings between City officials and the Applicant between 2023 and 2025. The purpose of the meetings was to question the Applicant about on-the-job conduct and to discuss the return-to-work process. At that time, the Applicant was still employed by the City but there were serious concerns with the Applicant’s job performance.

¹⁵ *Supra*, footnote 13 at paragraph [45].

- [47] In *Britto v University of Saskatchewan [Britto #2]*, Danyiuk J. equated the exemption in section 14(1)(d) of *LA FOIP* with the legal class privilege - litigation privilege.¹⁶ Danyiuk J. reviewed the Commissioner's analysis with respect to section 14(1)(d) of *LA FOIP* in that case and found that the potential admissibility of the records in later litigation is an irrelevant consideration in the application of the exemption in section 14(1)(d) of *LA FOIP*.
- [48] The spectre of litigation had existed for years in that case and the documents in question had been created well after the first commencement of legal proceedings by the Applicant Britto in 2014. In fact, Danyiuk J. noted that at the time of the first *LA FOIP* request, the Applicant Britto was firmly ensconced in litigation with the University.¹⁷
- [49] *Britto #2* examined the potential injury connected to the disclosure of the documents from the viewpoint of litigation privilege which was logical in that case because litigation had already been initiated and was on-going. That is not the case here where this office has no evidence that litigation was on the radar when the notes/transcription were made.
- [50] Injury will be considered in this case then, from the viewpoint of potential damage or detriment to the disclosing body in the face of anticipated litigation. This office has found in the past that the exemption is designed to protect a local authority from harm in its existing or anticipated legal proceedings.¹⁸
- [51] The Office of the Information and Privacy Commissioner of Ontario (ON IPC) considered a similar set of facts where a patient sought access for notes taken during a meeting with the patient (Applicant) was in attendance.¹⁹ The custodian refused access to the notes by

¹⁶ [Britto v University of Saskatchewan](#), 2018 SKQB 92 at paragraphs [41] to [71]. [*Britto #2*]

¹⁷ *Ibid*, a review of the litigious proceedings was provided by Danyiuk J. in paragraph [51] and a finding made at paragraph [56].

¹⁸ OIPC [Review Report 115-2017](#) at paragraph [63].

¹⁹ ON IPC [PHIPA Decision 238](#) at paragraph [4].

claiming legal privilege exemptions set out in sections 52(1)(a) and (c) of the *Personal Health Information Protection Act, 2004 (PHIPA)*.²⁰ Sections 52(1)(a) of PHIPA:

52(1) Subject to this Part, an individual has a right of access to a record of personal health information about the individual that is in the custody or under the control of a health information custodian unless,

(a) the record or the information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be, to the individual;

...

(c) the information in the record was collected or created primarily in anticipation of or for use in a proceeding, and the proceeding, together with all appeals or processes resulting from it, have not been concluded;

[52] The ON IPC found that the notes did not contain information that would be injurious in the circumstances of future legal action because the notes reflected that in the meeting the Applicant did most of the talking and was present for the entire discussion so he had direct knowledge of the interaction:²¹

[44] As noted above, the Director in her email to the complainant denying access to the notes said that the meeting was “held for the purpose of allowing [him] to share [his] concerns”. Without disclosing the content of the notes, I note that the Director did what one would expect a physician in a leadership role do at a meeting in which a patient seeks an audience to discuss their concerns. She listened to the complainant, documented his concerns (including his threats to take legal action), explained the facility’s standard procedures and agreed to look into issues relating to delay. Accordingly, I am satisfied that the **primary** purpose of the meeting between the Director and the complainant was to afford the complainant an opportunity to air his grievances relating to his patient experience. Accordingly, I find that the notes were not prepared for the dominant purpose of litigation or collected/created primarily for use in an anticipated proceeding.

[Emphasis in original]

²⁰ [Personal Health Information Protection Act, 2004](#), S.O. 2004, c. 3, Schedule A.

²¹ *Supra*, footnote 19 at paragraph [44].

[53] Similarly, in this case the Applicant was present and participated at the meetings and heard what was said by others in the meeting. It is difficult to see how the meeting transcriptions and notes contain information that could be injurious in the case of future legal proceedings and the City has not provided any assistance in this respect. The meeting transcriptions are not documents that were created within the sphere of litigation. All the same, it would be illogical to think that these transcriptions will not appear in future legal proceedings. Still, since they reflect statements of the Applicant with respect to questions involving on-the-job performance or non-performance, it is hard to envision the injurious aspect of these materials without further evidence in this respect.

[54] The City has not demonstrated that the disclosure of the records in the first four bullets of paragraph [40] could be injurious to it in the conduct of the legal proceedings.

[55] Section 14(1)(d) of *LA FOIP* does not apply to the records listed in the first four bullets of paragraph [40]. Later in this Report, OIPC will consider whether section 30(2) of *LA FOIP* applies to these pages.

b. Pages 1 to 2 of Record 81

[56] The information on pages 1 and 2 of Record 81 involves discussion whether a mandated task had been completed between the City and a psychologist. The information is transitory in nature. It does not reveal any information about the City's investigation or the assessment of the employee. The City has not demonstrated how this email conversation could be injurious in future litigation and we see that no privileged information was conveyed other than a frank admission that an interview had been completed. As such, the second part of the two-part test is not met. Section 14(1)(d) of *LA FOIP* does not apply to pages 1 to 2 of **Record 81**. Later in this Report, OIPC will consider whether section 30(2) of *LA FOIP* applies to pages 1 to 2 of **Record 81**.

c. Page 1 of Record 102

[57] Page 1 of **Record 102** is a Regina City employee's instant message involving the request for a compilation of a list. Based on the nature of the information, it is difficult to anticipate injury occurring to the City in the course of future litigation on the basis of this message, and the City has not provided submissions to this effect. Therefore, the second part of the two-part test is not met. Section 14(1)(d) of *LA FOIP* does not apply to page 1 of **Record 102**.

d. Pages 2 to 4 of Record 111

[58] Pages 2 to 4 of Record 111 are emails between the City and another party to schedule an appointment for an assessment of the Applicant. Once again, in the absence of submissions from the City on the possible litigious injury in connection with the disclosure of these emails – we are left to conclude that the second part of the two-part test is not met. Section 14(1)(d) of *LA FOIP* does not apply to pages 2 to 4 of Record 111.

[59] We conclude this phase of the analysis with the following consideration. In cases such as *Britto #2* and *OIPC Review Report 074-2025*, where litigation is already established and on-going, the dominant purpose test will be applied in any review of the application of the exemption in section 14(1)(d) of *LA FOIP*. But in cases, such as this, where litigation is anticipated, it will be up to the local authority to supply convincing reasons as to the potential injurious effects of disclosure of the records in the conduct of future litigation. All submissions to this office are treated in the utmost of confidence and without this information, we cannot guess at the issues that may arise. The party raising the exemption is the best party to explain the injury that is anticipated through disclosure of the information.

6. Has the City made a *prima facie* case for section 21(a) of *LA FOIP* to apply?

[60] The City applied section 21(a) of *LA FOIP* to portions of pages within **Records 2, 3, 4, 98, 99, 102, 103 and 104**. Where section 21(a) of *LA FOIP* is found to apply, there will be no need to review the other exemptions the City has applied alongside this provision.

[61] Section 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;

[62] The City exerted a *prima facie* claim for solicitor-client privilege over portions of the pages listed at paragraph [56]. In support of this claim, the City provided an affidavit and attached a schedule of records outlining the date of the record in each claim, the author, and the nature of the records in the claim.

[63] Solicitor-client privilege under section 21(a) of *LA FOIP* applies to records that involve communications between solicitor and client, that entails the seeking or giving of legal advice, and this intended by the parties to be confidential.²² The City explained that the seeking or giving of legal advice involved lawyers within the City Solicitor's office. As stated by the Supreme Court of Canada, solicitor-client privilege applies equally to in-house counsel working on behalf of the government as it does to independent or private counsel.²³

²² [*Descôteux et al. v Mierzwinski*](#), [1982] 1 SCR 860 at pages 870-873; [*Alberta \(Information and Privacy Commissioner\) v University of Calgary*](#), [2016] 2 SCR 555 at paragraphs [40] to [43].

²³ [*Pritchard v. Ontario \(Human Rights Commission\)*](#), 2004 SCC 31, [2004] 1 SCR 809 at paragraphs [19] to [21]. British Columbia Office of the Information and Privacy Commissioner [Order F23-107](#) at paragraph [29].

[64] Further, in *Canada (Public Safety and Emergency Preparedness) v. Canada (Information Commissioner)*, 2013 FCA 104, the Federal Court of Appeal explained that privilege also protects communications that fall within the continuum of legal advice:²⁴

[26] All communications between a solicitor and a client directly related to the seeking, formulating or giving of legal advice are privileged, along with communications within the continuum in which the solicitor tenders advice. See *Samson Indian Nation and Band v. Canada*, 1995 CanLII 3602 (FCA), [1995] 2 F.C. 762 at paragraph 8.

[27] Part of the continuum protected by privilege includes “matters great and small at various stages...includ[ing] advice as to what should prudently and sensibly be done in the relevant legal context” and other matters “directly related to the performance by the solicitor of his professional duty as legal advisor to the client.” See *Balabel v. Air India*, [1988] 2 W.L.R. 1036 at page 1046 per Taylor L.J.; *Three Rivers District Council v. Governor and Company of the Bank of England*, [2004] UKHL 48 at paragraph 111.

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

[29] For example, where a Director of a government department receives legal advice on how certain proceedings should be conducted and the director so instructs those conducting proceedings, the instructions, essentially cribbed from the legal advice, form part of the continuum and are protected: *Minister of Community and Social Services v. Cropley* (2004), 2004 CanLII 11694 (ON SCDC), 70 O.R. (3d) 680 (Div. Ct.). Disclosing such a communication would undercut the ability of the director to freely and candidly seek legal advice.

[65] In its submission, the City explained that it applied section 21(a) of *LA FOIP* to records that were prepared by or for legal counsel in the City Solicitor’s Office. It also applied section 21(a) of *LA FOIP* to records where the recipients of the legal advice shared the legal advice. In other words, records that fall within the continuum of legal advice.

²⁴ [*Canada \(Public Safety and Emergency Preparedness\) v. Canada \(Information Commissioner\)*](#), 2013 FCA 104 at paragraphs [26] to [29]. Alberta Office of the Information and Privacy Commissioner [Order 2014-38](#) at [para 56].

- [66] Solicitor-client privilege can only be waived by the party in whom the privilege resides. In this case, it is the City who was given the legal advice and who was engaged in discussions with respect to the legal advice. The City is not waiving this privilege.
- [67] A party asserting a claim of solicitor-client privilege must allege a presumption of fact, albeit rebuttable, that all communication between client and lawyer are *prima facie* confidential in nature. Any arguments supporting the privilege are to be made in the hypothetical, and Courts are reluctant to peel back the privilege unless the party advocating otherwise can demonstrate that there is no basis in fact to apply the privilege or that the privilege is misapplied. If the threshold is met – it is a high threshold to pierce.²⁵
- [68] The affidavit provided by the City was sworn by an affiant who had direct knowledge of the content of, and context associated with, the records to which the solicitor-client privilege claim was asserted.
- [69] Upon review of the schedule of records and the City submission, it is apparent that the records to which the City applied section 21(a) of *LA FOIP* are emails that involved the City and its legal counsel or was within the continuum of the provision of legal advice.
- [70] The City has established a *prima facie* case justifying the application of section 21(a) of *LA FOIP* to the records listed at paragraph [60].²⁶

²⁵ [*University of Saskatchewan v Saskatchewan \(Information and Privacy Commissioner\)*](#), 2018 SKCA 34 at paragraphs [49] and [79].

²⁶ Since the City has established a *prima facie* case justifying the application of section 21(a) of *LA FOIP*, there is no need to consider whether the City properly applied section 21(b) and (c) of *LA FOIP*. Further, there is no need to consider whether the City properly applied the exemption in section 16(1)(c) of *LA FOIP* to page 35 of **Record 4**.

7. Did the City properly apply section 30(2) of LA FOIP?

[71] This review has already determined that the City did not properly apply the exemptions in sections 14(1)(d) and 16(1)(b) and (d) of *LA FOIP* to the following pages:

- Pages 3 to 7, 10 to 11, 14 to 17 of **Record 1**;
- Pages 1 to 6, 11 to 13, 52 to 55 of **Record 2**;
- Pages 19 to 21 of **Record 3**; and
- Page 1 of **Record 110**.

[72] As described earlier, the above pages were transcriptions of meetings with City employees and the Applicant.

[73] This review has also determined that:

- The City did not properly apply sections 14(1)(d) and 16(1)(a) of *LA FOIP* to pages 1 and 2 of **Record 81**.
- The City did not properly apply section 14(1)(d) of *LA FOIP* to pages 2 to 4 of **Record 111**.

[74] The City also applied section 30(2) of *LA FOIP* to these pages.

[75] Section 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.

[76] OIPC uses the following three-part test to determine if the exemption applies:²⁷

1. Is the information personal information that is evaluative or opinion material?
2. Was the personal information compiled solely for one of the following three enumerated purposes?

²⁷ OIPC [Review Report 010-2024](#) at paragraph [29].

- For determining the individual’s suitability, eligibility or qualifications for employment.
 - For awarding of contracts with the local authority.
 - For awarding other benefits by the local authority.
3. Was the personal information provided explicitly or implicitly in confidence?

[77] Relevant definitions for the first part of the test include:²⁸

- “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.

a. Pages listed at paragraph [71]

[78] As described earlier, the pages listed at paragraph [71] are transcriptions of the discussions in meetings between City employees and the Applicant. The transcriptions of all these meetings reveal that an evaluation was continual and on-going during the course of the meetings. The Applicant voluntarily responded to questions that were posed as an evaluation of the Applicant’s job performance and related human resources issues during the material time. The transcriptions of the meetings were created for evaluative purposes as well. The first part of the test is met.

[79] Further, it is obvious from the context of the meeting transcriptions that not only was the Applicant being evaluated for the suitability of job performance but that the meetings were being held in the strictest of confidence out of respect for the Applicant and the human resources issues that were at play at that time.

²⁸ OIPC [Review Report 152-2023](#) at paragraph [50].

[80] The exemption in section 30(2) of LA FOIP was properly applied to the pages in paragraph [71].

b. Pages 1 and 2 of Record 81

[81] As described earlier, pages 1 and 2 of **Record 81** contain emails between the City and a psychologist regarding whether a task had been completed. The psychologist also provides context surrounding the completion of the task. The contents do not qualify as evaluative or opinion material. The first part of the three-part test is not met. The exemption in section 30(2) of *LA FOIP* does not apply to pages 1 and 2 of **Record 81**.

c. Pages 2 to 4 of Record 111

[82] Pages 2 to 4 of **Record 111** contain emails between the City and another party to schedule an appointment for an assessment of the Applicant. The contents do not qualify as evaluative material or the giving of an opinion. The first part of the three-part test is not met. The exemption in section 30(2) of *LA FOIP* does not apply to pages 2 to 4 of **Record 111**.

8. Did the City properly apply the exemption in section 28(1) of LA FOIP?

[83] The City redacted sentences from emails that appear on the following pages:

- Page 50 of **Record 2**;
- Page 95 of **Record 3**;
- Pages 2 and 3 of **Record 95**; and
- Page 7 of **Record 111**.

[84] Section 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.

[85] In order for section 28(1) of *LA FOIP* to apply, the withheld information must qualify as personal information as defined by section 23(1) of *LA FOIP* with respect to another individual. In order to qualify as personal information pursuant to section 23(1) of *LA FOIP*, the information must be about an identifiable individual and be personal in nature.²⁹

[86] Section 23(1) of *LA FOIP* provides a non-exhaustive list of personal information. Sections 23(1)(c) and (k)(i) of *LA FOIP* are particularly relevant in this case:

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:

...

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

...

(k) the name of the individual where:

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

[87] The redacted sentences in the emails in the records listed at paragraph [83] were written by City employees. The sentences included references to personal circumstances, such as health reasons, and explain why they were delayed in responding to the email. This constitutes their own personal information.

[88] Upon review of the pages listed at paragraph [83], the redacted sentences qualify as third party personal information as defined by section 23(1)(c) and (k)(i) of *LA FOIP*. As such, the City properly applied section 28(1) of *LA FOIP* to the redacted sentences in the pages and records listed at paragraph [83].

²⁹ OIPC [Review Report 051-2025](#) at paragraph [44] explained that the information must be about an identifiable individual, or the individual must be “reasonably capable” of being identified.

9. Are there records that are non-responsive?

[89] The City marked portions of the following records as “non-responsive”:

- Pages 27 to 28, 30, 45, 50 to 51 of **Record 2**;
- Majority of **Records 5 to 17, 19 to 58** (Excel spreadsheets);
- Page 1 of **Record 60**;
- Page 4 of **Record 62**;
- Page 1 of **Record 98**; and
- Page 1 of **Record 99**.

[90] Non-responsive means information that is not relevant to an access request.³⁰ Factors to consider regarding relevancy include the scope of the access request, including the stated timeframe and/or subject matter. It includes consideration of whether portions of a record are entirely unrelated. Separate items of information cannot be viewed out of context of the record as a whole when determining they are separate and distinct. The Saskatchewan King’s Bench court has recently ruled that little is gained by disclosure of irrelevant material.³¹ This office has adopted that guidance and non-responsive materials should not be disclosed.

[91] The portions of **Records 2, 5 to 17, 19 to 58, 60 and 62** that the City marked as “non-responsive” contain information about City employees other than the Applicant. For example, **Records 5 to 17 and 19 to 58** are Microsoft Excel spreadsheets that lists the City employees who elected for coronavirus disease (COVID) testing. The City disclosed to the Applicant the row in each Excel spreadsheet that contained the Applicant’s name and information but redacted the remainder of each spreadsheet as “non-responsive” since it contained the information about other employees. Information about other employees are indeed non-responsive to the access request as the Applicant has only sought information about themselves.

³⁰ OIPC [Review Report 078-2025](#) at paragraph [58].

³¹ *Supra*, footnote 2 at paragraph [64].

[92] Page 1 of **Record 98** and page 1 of **Record 99** contain a bulleted list of topics. The first two bullet points on each record are regarding topics that are not related to the Applicant or their access request. Rather, they appear to be general topics related to the human resources function of the City. As such, the first two bullet points on **Records 98** and **99** are non-responsive to the Applicant's access request.

IV FINDING

[93] OIPC has jurisdiction and is undertaking this review pursuant to PART VI of *LA FOIP*.

[94] The Appendix sets out where OIPC has found exemptions were properly applied by the City.

[95] The pages/records listed in paragraph [89] are non-responsive to this access request and should not be disclosed.

[96] The City did not properly apply sections 14(1)(d), 16(1)(a) and 30(2) of *LA FOIP* to pages 1 and 2 of **Record 81**.

[97] The City did not properly apply sections 14(1)(d), 16(1)(a),(b), (d), 30(2) of *LA FOIP* to the instant message time stamped 3/28 9:06am on page 1 of **Record 102**.

[98] The City did not properly apply sections 14(1)(d) and 30(2) of *LA FOIP* to pages 2 to 4 of **Record 111**.

V RECOMMENDATIONS

[99] I recommend that the City release to the Applicant within 30 days of this Report being issued pages 1 and 2 of **Record 81**.

[100] I recommend that the City release to the Applicant within 30 days of this Report being issued the instant message time stamped 3/28 9:06am on page 1 of **Record 102**.

[101] I recommend that the City release to the Applicant within 30 days of this Report being issued pages 2 to 4 of **Record 111**.

[102] I recommend that the City continue to withhold the pages of the records as set out in the Appendix.

Dated at Regina, in the Province of Saskatchewan, this 2nd day of April, 2026.

Grace Hession David
Saskatchewan Information and Privacy Commissioner

Appendix

Section 16(1)(b) of *LA FOIP* properly applied:

Record #	Page #
1	2, 18, 19
2	7 to 10, 14 to 18, 26, 28 to 29, 42 to 47, 50 to 51, 56 to 57, 60 to 64, 67, 72 to 73, 75 to 85, 87 to 88, 91 to 96
3	1 to 7, 11 to 18, 70, 74 to 88, 90 to 91, 95, 97 to 98, 103, 109 to 110.
4	4 to 8, 23 to 25, 104 to 105, 112, 124 to 126, 135 to 136, 138, 140 to 141, 143 to 153.
59	1
60	1 to 2
61	1
62	1, 4 to 7
63	1 to 10
64	1
66	1, 3
67	1
69	1
76	1 to 4
77	1
82	1
83	1 to 2
84	1 to 8
86	1, 10
88	1 to 3, 11
91	1 to 2
92	1 to 5
93	1 to 3
95	2
101	1
104	1
105	1
106	1
107	1 to 5
112	1 to 4

Section 16(1)(a) of *LA FOIP* properly applied:

Record #	Page #
62	2 to 4, 6
63	6, 9
64	1
65	1 to 4
66	1 to 2

78	1 to 7
81	5 to 10
83	1
95	1, 3

The City has established a *prima facie* case justifying the application of section 21(a) of *LA FOIP*:

Record #	Page #
2	19 to 25
3	71, 73
4	10 to 22, 27 to 42, 44 to 53, 101 to 103, 112 to 113, 133, 145, 153 to 154
98	1
99	1
102	1
103	1
104	1

Section 28(1) of *LA FOIP* properly applied:

Record #	Page #
2	50
3	95
95	2, 3
111	7

Section 30(2) of *LA FOIP* properly applied:

Record #	Page #
1	3 to 7, 10 to 11, 14 to 17
2	1 to 6, 11 to 13, 52 to 55
3	19 to 21
110	1

Non-responsive portions should not be disclosed:

Record #	Page #
2	27 to 28, 30, 45, 50 to 51
5 to 17, 19 to 58 (Excel spreadsheets)	The lines on the spreadsheets that contain other employees' information.
60	1
62	4
98	1
99	1