

**SASKATCHEWAN  
INFORMATION AND PRIVACY COMMISSIONER**

**REVIEW REPORT 062/2014**

**Sunrise Regional Health Authority**

**Summary:** Sunrise Regional Health Authority (Sunrise) received an access to information request for a harassment report that involved the Applicant. Sunrise denied access to the record applying subsection 21(a) and (b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Commissioner found that subsection 21(b) of LA FOIP to the record and recommended that Sunrise continue to withhold the record.

**I BACKGROUND**

[1] The applicant made a request to Sunrise Regional Health Authority (Sunrise) for access to a harassment report regarding matters in which she was involved. Sunrise replied in a letter dated March 14, 2014 indicating that access was denied pursuant to subsections 21(a) and 21(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

[2] The applicant made a request for review to my office via letter dated April 25, 2014. My office notified both the applicant and the public body of our intention to undertake the review on July, 9, 2014. The office received Sunrise's submission on October 7, 2014 and in that submission it applied additional exemptions.

## II RECORDS AT ISSUE

[3] The record at issue is a 51 paged report entitled *Report on Investigation of Allegations of Harassment for Sunrise Health Region* dated December 3, 2013. The title page indicates it was prepared by a lawyer.

[4] In its response to the Applicant's request, Sunrise indicated it was relying on subsections 21(a) and 21(b) of LA FOIP to withhold the record. However, in its submission, Sunrise raised the following additional exemptions:

- Subsection 14(1)(d) of LA FOIP to the entire record.
- Subsections 14(1)(c), 14(1)(f) and 28(1) of LA FOIP to certain parts of the record.

## III DISCUSSION OF THE ISSUES

[5] Sunrise qualifies as a local authority pursuant to subsection 2(f)(xiii) of LA FOIP.

### 1. Does subsection 21(b) of LA FOIP apply?

[6] Subsection 21(b) of LA FOIP states the following:

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

...

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

[7] The following two part test is used to establish if a record qualifies for exemption under this subsection:

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

- i. *Were the records “prepared by or for” an agent or legal counsel for a local authority?*

[8] Sunrise’s submission indicates that the record was prepared by an external solicitor. The front cover of the record also supports this assertion. As such, this part of the test has been met.

- ii. *Were the records provided in relation to a matter involving the provision of advice or other services by the agent or legal counsel?*

[9] My office has previously defined ‘legal services’ to include any law-related service performed by a person licensed to practice law.

[10] Sunrise’s submission states that the record “was provided in relation to a matter involving the provision of advice or other services (not necessarily of a legal nature)... in this case, the investigation and assessment of the harassment allegations made by the Applicant.” Upon review of the record and the submission, the preparation of this record would qualify as a legal service.

[11] As Sunrise has demonstrated that subsection 21(b) of LA FOIP applies to the record, there is no need to consider any of the other exemptions raised by Sunrise.

#### **IV FINDINGS**

[12] I find that Sunrise has demonstrated that subsection 21(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* applies to the record in its entirety.

**V RECOMMENDATIONS**

[13] I recommend that Sunrise continue to withhold the record.

Dated at Regina, in the Province of Saskatchewan, this 6th day of November, 2014.

Ronald J. Kruzeniski, Q.C.  
Saskatchewan Information and Privacy  
Commissioner