

In the Case of an Application by the Ministry of Human Resources for Authorization to Disregard Requests from [the respondent] under Section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act)

I have had the opportunity of reviewing the application of the Ministry of Human Resources under section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard requests made by [the respondent] under section 5 of the Act.

Section 43 gives me the power to authorize a public body to disregard requests under section 5 that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body, in this case the Ministry of Human Resources.

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard requests must be done sparingly and only in obviously meritorious cases. Granting section 43 requests should be the exception to the rule and not a routine option for public bodies to avoid their obligations under the legislation.

Based on a detailed review of the submissions of the Ministry of Human Resources and the response of the respondent, the following factors have led me to decide that [the respondent]'s access requests are repetitious, systematic, and unreasonably interfere with the operations of the Ministry:

1. The Ministry states that [the respondent] is its [client]. Since 1994 the Ministry, and its predecessor, the Ministry of Social Services, has received a total of 23 requests from [the respondent]: "The number can be said to be higher because the Public Body often treats as single requests faxed from [the respondent] that really contain more than one distinct request." (Submission of the Ministry, paragraph 3.02) This number of requests from one individual is "high" from one individual. (Submission of the Ministry, paragraph 3.07) Most of these requests ask for personal information about [the respondent] in all parts of the Ministry. (Submission of the Ministry, paragraphs 3.03, 3.04) The Ministry describes [the respondent]'s methods of communicating with it about [his/her] requests is to apply a "pattern of bombardment by correspondence to almost every request [he/she] makes. In short, [the respondent] has an enormous capacity for creating paper and flooding the Public Body with it." (Submission of the Ministry, paragraph 3.05)

2. The Ministry submitted the reasons for decision [in a court matter] involving [the respondent], which reviews some of the history and nature of [his/her] relationship with the Ministry (and its predecessor, the Ministry of Social Services). In particular, the [court] commented on [the respondent]'s tendency and capacity, by piling proceeding upon proceeding, to create confusion, as well as waste of time and resources, all of which must be met from the hard pressed public purse. (Submission of the Ministry, paragraph 2.02)

3. The Information and Privacy Office of the Ministry estimates on the basis of "good records" that it has spent at least 123 hours responding to only the last eight requests of [the respondent]. (Submission of the Ministry, paragraph 3.08) The coordinator who has handled these specific requests estimates that "due to the volume and confusing nature of the requests and associated correspondence, it takes him approximately 3 times as long to process a request from [the respondent] as it does to process requests from other applicants." (Submission of the Ministry, paragraph 3.13) Other staff outside this Office also "spend a considerable amount of time" dealing with these requests. (Submission of the Ministry, paragraph 3.09) In terms of measuring and evaluating the significance of this time commitment, the Ministry relies on my discussion in Order 110-1996, June 5, 1996, p. 5. (Submission of the Ministry, pp. 3, 12)

I agree with the submission of the Ministry that [the respondent] has made, and continues to make, "unreasonable" demands on staff of the Ministry to process [his/her] repetitious and systematic access requests. (Submission of the Ministry, paragraph 3.13)

4. Based on my decision in Order No. 110-1996, I also agree with the submission of the Ministry that "[The respondent] is not using the Act for the purpose for which it was intended, and is not using the Act in good faith. [The respondent] is using the Act as a weapon against the Public Body because [he/she] is unhappy with the Public Body's decisions about [his/her] entitlement to income assistance benefits. The demands placed on the Public Body by [the respondent] are excessive. The Public Body's efforts to help [the respondent] have been excessive in light of its responsibilities to other clients and the taxpayers." (Submission of the Ministry, paragraphs 3.14, 3.17) (See also Order No. 137-1996, December 17, 1996, p. 10.)

5. I also agree with the Ministry that it is unfair for it to devote so much time and effort to responding to a single applicant under the Act. This unreasonably interferes with the operations of the Ministry and is unfair to other applicants and the taxpayers. I further agree that "to require the Public Body to continue to incur the costs of responding to [the respondent]'s requests would offend public policy, particularly in these times of fiscal restraint, and would bring the Act into disrepute." (Submission to the Ministry, paragraph 3.17)

Therefore, I authorize the Ministry to disregard all requests from [the respondent], in particular the following:

- 1. all requests that were outstanding at July 23, 1997;**
- 2. all requests received between July 23, 1997 and September 12, 1997;**
- 3. all future requests that may be received between September 12, 1997 and the date of issuance of this authorization; and**
- 4. all future requests for a period of two years from the date of issuance of this authorization.**

October 16, 1997

David H. Flaherty
Commissioner