



Order F22-43

## MINISTRY OF FINANCE

Erika Syrotuck  
Adjudicator

September 16, 2022

CanLII Cite: 2022 BCIPC 48  
Quicklaw Cite: [2022] B.C.I.P.C.D. No. 48

**Summary:** The applicant requested records from the Ministry of Finance (Ministry). The Ministry withheld some information under s. 12(1) (Cabinet confidences), 13(1) (advice or recommendations) and s. 22(1) (unreasonable invasion of a third party's personal privacy). The adjudicator found that s. 12(1) and s. 22 applied to some but not all of the information in dispute under those exceptions. The adjudicator found that s. 13(1) applied to the information in dispute considered under that exception.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165 ss. 12(1), 12(2), 13(1), 13(2), 13(2)(a), 13(3), 22(1), 22(2), 22(2)(a), 22(2)(f), 22(3)(a), 22(3)(d), 22(3)(g), 22(4), 22(4)(e).

## INTRODUCTION

[1] The applicant made a request to the Ministry of Finance (Ministry) under the *Freedom of Information and Protection of Privacy Act* (FIPPA) for records relating to the vetting and appointment of named individuals to the Health Care Practitioners Special Committee for Audit Hearings by the Crown Agencies and Board Resourcing Office (CABRO), including copies of their candidate profile and declaration forms and any records relating to declared conflicts of interest.

[2] The Ministry responded to the applicant's request, but withheld some information under ss. 12(1) (Cabinet confidences), 13(1) (advice and recommendations), 17(1) (harm to the financial or economic interests of a public body) and 22(1) (unreasonable invasion of a third party's personal privacy) of FIPPA.

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Ministry's response.

[4] As a result of mediation by the OIPC, the Ministry reconsidered some of its severing and released additional information previously withheld under s. 22(1). Mediation did not resolve the remaining issues and the matter proceeded to inquiry.<sup>1</sup>

[5] Prior to making its submissions in this inquiry, the Ministry reconsidered its position on some of the information at issue.<sup>2</sup> As a result, s. 17(1) is no longer at issue in this inquiry.

### ***Preliminary issues***

[6] The parties' submissions raise several preliminary issues.

#### *New issues*

[7] In his submissions, the applicant raises some issues that are not in the notice of inquiry, such as the Ministry's interpretation of his initial access request<sup>3</sup> and whether a person has committed an offence under s. 74 (now 65.2) of FIPPA.<sup>4</sup> As set out in the OIPC's instructions for written inquiries and in the notice of inquiry, in general, parties may not add new issues to the inquiry without the OIPC's consent. Nothing before me suggests that the applicant requested to add new issues to the inquiry or that it would be fair to add these new issues now. As a result, I decline to add any new issues to this inquiry.

#### *In camera decision*

[8] The applicant takes issue with my decision to allow the Ministry to provide some information *in camera* (that is, information that is seen by the Commissioner only). At various points in his submissions, he says that it is inappropriate for information to be *in camera*.<sup>5</sup> In some instances, he submits that the information should be provided to him because it forms part of the public body's argument.<sup>6</sup> He also says waiver applies to some of the information that I have accepted *in camera*.<sup>7</sup>

---

<sup>1</sup> Some appropriate persons were invited to participate in the inquiry under s. 54(b). However, during the inquiry, they confirmed that they did not want to participate in the inquiry, so they were removed as appropriate persons.

<sup>2</sup> By letter on May 16, 2022.

<sup>3</sup> According to the Investigator's Fact Report, the applicant's complaint about the adequacy of the Ministry's search for responsive records was investigated in a different file and is not at issue in this inquiry.

<sup>4</sup> In any case, the applicant has provided no credible evidence that any person has committed an offence.

<sup>5</sup> Applicant's submissions, page 14, 15, 16, 24, for example.

<sup>6</sup> Applicant's submissions, page 14, for example.

<sup>7</sup> Applicant's submissions, page 15, for example.

[9] Section 56(4) of FIPPA expressly gives the Commissioner discretion to consider information that is not shared with another party. This section says:

(4) The commissioner may decide

(a) whether representations are to be made orally or in writing, and

(b) whether a person is entitled to be present during or to have access to or to comment on representations made to the commissioner by another person.

[10] The OIPC decides whether a party can submit information *in camera* based on the principles of procedural fairness. Accepting information *in camera* does affect the right of an applicant to know the case against them. However, this must be balanced with the public body's right to make its case. As set out in the OIPC's instructions for written inquiries, the OIPC typically accepts information *in camera* when it would reveal the information in dispute or would itself be subject to an exception under FIPPA.<sup>8</sup>

[11] This is the approach I took in deciding that the public body should be allowed to submit some information *in camera*. Nothing the applicant says persuades me that this process was unfair or that I should reconsider my *in camera* decision.

## ISSUES

[12] At this inquiry I must decide the following issues:

1. Is the Ministry required to withhold the information in dispute under s. 12(1) and 22(2)?
2. Is the Ministry authorized to withhold the information in dispute under s. 13(1)?

[13] Under s. 57(1) of FIPPA, the burden of proof is on the Ministry to show that the applicant has no right of access under ss. 12(1) and 13(1). Regarding s. 22(1), s. 57(2) of FIPPA states that the applicant must prove that disclosure of a third party's personal information would not be an unreasonable invasion of that third party's personal privacy. However, the Ministry bears the burden of showing that the information at issue under s. 22(1) is "personal information".<sup>9</sup>

---

<sup>8</sup> <https://www.oipc.bc.ca/guidance-documents/1744> at page 5.

<sup>9</sup> Order F20-18, 2020 BCIPC 20 at para 4.

## DISCUSSION

### Background

[14] The Medical Services Plan (MSP) is the public health insurance program in British Columbia.<sup>10</sup> MSP is managed by the Medical Services Commission (Commission) on behalf of the government of British Columbia.

[15] Under MSP and the *Medicare Protection Act*, practitioners<sup>11</sup> who are enrolled can bill MSP directly for services they provide to beneficiaries. To ensure that public funds are spent appropriately, the Commission has the legislated authority to audit practitioners who bill their services to MSP. One of the ways that the Commission audits practitioner's billing is through "special committees" for health care practitioners.<sup>12</sup> Under the *Medicare Protection Act*, the Commission can delegate its power or duties to a panel comprised of three or more persons each representing Doctors of BC, beneficiaries and government.

[16] Due to a shortage of government and beneficiary representatives, the Commission frequently uses individuals that have been screened by CABRO for appointment to the Health Care Practitioners Special Committee for Audit Hearings (Committee). The individuals named in the applicant's access request were appointed to the Committee.<sup>13</sup>

[17] CABRO is part of the Ministry of Finance. One of its functions is to oversee the recruitment of candidates for appointment to public sector organizations such as health authorities and tribunals. Applicants for a board or tribunal appointment must complete a "Candidate Profile and Declaration" and submit it to CABRO for consideration. All appointments must be officially approved, for example by Order in Council or a Minister's letter.

### Information at issue

[18] The information at issue relates to the vetting and appointment of the two individuals named in the applicant's access request. The information in dispute is in various kinds of records such as emails, various forms, and other materials such as a background note and memo. I will discuss each kind of record in more detail as it relates to each exception under FIPPA.

---

<sup>10</sup> The information in the background, which I accept, is set out in the Ministry's initial submissions at paras 16 – 33.

<sup>11</sup> "practitioner" is defined in s. 1 the *Medicare Protection Act*.

<sup>12</sup> Under s. 4 of the *Medicare Protection Act*.

<sup>13</sup> Ministry's reply submissions, para 6.

### **Section 12(1) – Cabinet confidences**

[19] Section 12(1) of FIPPA requires a public body to refuse to disclose information that would reveal the substance of deliberations of the Executive Council (also known as Cabinet) or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees. However, s. 12(1) does not apply in the circumstances set out in s. 12(2).

[20] The purpose of s. 12(1) is to widely protect the confidence of Cabinet communications.<sup>14</sup> Explaining the rationale for protecting Cabinet confidences, the Supreme Court of Canada has said that “[t]hose charged with the heavy responsibility of making government decisions must be free to discuss all aspects of the problems that come before them and to express all manner of views, without fear that what they read, say or act on will later be subject to public scrutiny”.<sup>15</sup>

[21] The Ministry has withheld information under s. 12(1) from the following records:<sup>16</sup>

- CABRO Minister Briefing Memo (memo);<sup>17</sup>
- Order in Council CABRO Summaries (summaries);<sup>18</sup> and
- Order in Council CABRO Discussion Note (discussion note).<sup>19</sup>

### *Section 12(1) – Committee of the Executive Council*

[22] Since s. 12(1) only applies to Cabinet or its committees, the first part of the s. 12(1) analysis is to determine whether the information at issue relates to Cabinet or a Committee of the Executive Council. Section 12(5) allows the Lieutenant Governor in Council to designate a committee for the purpose of the section.

[23] The Ministry submits that the information it withheld under s. 12(1) in the memo and discussion note was the subject of deliberations by the Appointments Office Committee (the Appointments Committee) at two meetings dated December 4, 2018 and November 26, 2019 respectively.<sup>20</sup> The Ministry submits

---

<sup>14</sup> *Aquasource Ltd. v. British Columbia (Freedom of Information and Protection of Privacy Commissioner)* 1998 CanLII 6444 (BC CA) [*Aquasource*] at para 41.

<sup>15</sup> *Babcock v Canada (Attorney General)*, 2002 SCC 57 at para. 18.

<sup>16</sup> As described in its table of records.

<sup>17</sup> Pages 7-8 of the records in dispute.

<sup>18</sup> Pages 33-36 and 65 of the records in dispute.

<sup>19</sup> Pages 60-64 of the records in dispute.

<sup>20</sup> Ministry’s initial submissions at para 59 and the affidavit of the Director of Operations for CABRO (Director) at paras 19 and 20.

that the Appointments Committee was created in October 2018 and is designated under s. 12(5) of FIPPA.<sup>21</sup>

[24] I confirm that the Appointments Committee was designated as a committee in the *Committees of the Executive Council Regulation* under FIPPA at the relevant time.<sup>22</sup>

*Section 12(1) – Substance of deliberations*

[25] The next step in the analysis is to determine whether the information at issue would reveal the substance of deliberations of Cabinet or its committees.

*Interpretation of “substance of deliberations”*

[26] In *Aquasource Ltd. v. British Columbia (Freedom of Information and Protection of Privacy Commissioner [Aquasource])*, the BC Court of Appeal set out the meaning of “substance of deliberations” in the context of s. 12(1). The Court said that the phrase “substance of deliberations” refers to the body of information that the Cabinet or any of its committees considered (or would consider in the case of submissions not yet presented) in making a decision.<sup>23</sup> The Court further articulated this test as asking the question: “Does the information sought to be disclosed form the basis for Cabinet deliberations?”<sup>24</sup> In addition, s. 12(1) applies to information which would permit an accurate inference to be drawn about the “substance of deliberations.”<sup>25</sup>

[27] In its submissions, the Ministry refers to several parts of *Aquasource*.<sup>26</sup> Among other things, the Ministry says:

Ultimately, *Aquasource* makes it clear that s. 12(1) of *FIPPA* protects the body of information, including any advice, recommendations or policy considerations, which Cabinet has considered in making a decision, or information that would permit the drawing of accurate inferences with respect to the deliberations.<sup>27</sup>

[28] The applicant takes issue with the interpretation to s. 12(1) set out by the Ministry. The applicant says that to “envelope anything that comes before Cabinet as sacrosanct [...] is rather an extreme.”<sup>28</sup> He says that, the fact some of

---

<sup>21</sup> Ministry’s initial submissions at para 60.

<sup>22</sup> The Appointments Office Committee was added by BC Reg 241/2018, effective November 26, 2018.

<sup>23</sup> *Aquasource*, *supra* note 14 at para 39.

<sup>24</sup> *Ibid* at para 49.

<sup>25</sup> See for example, Order F18-24, 2018 BCIPC 27 at paras 36 – 37.

<sup>26</sup> Ministry’s initial submissions, paras 45 – 51.

<sup>27</sup> Ministry’s initial submissions, para 48.

<sup>28</sup> The information in this paragraph is from the applicant’s submissions at pages 24-25.

the information eventually finds itself before Cabinet is not sufficient and that the redactions do not reveal the substance about Cabinet deliberations *per se*.

[29] I appreciate the concerns that the applicant has about the way that s. 12(1) has been interpreted. Including anything that forms the basis for Cabinet deliberations in “substance of deliberations” creates a broad exception to disclosure that goes beyond protecting the views and opinions expressed by Cabinet members while they deliberate on the issues before them. However, *Aquasource*, as a decision of the BC Court of Appeal, is binding on the OIPC. Therefore, I am bound to follow that interpretation.

[30] The Ministry submits that all of the information withheld under s. 12(1) would reveal the substance of Cabinet’s and the Appointments Committee’s deliberations. As mentioned above, the Ministry applied s. 12(1) to information in several records. I turn to whether the information in those records, if disclosed, would reveal the substance of deliberations within the meaning set out in *Aquasource*.

*Discussion note and memo*

[31] The Ministry says that disclosure of the information it withheld in the discussion note and the memo would reveal the substance of deliberations of the Appointments Committee and is therefore prohibited by s. 12(1).<sup>29</sup>

[32] In support of its position, the Ministry provided evidence from the Director of Operations for CABRO (Director).<sup>30</sup> The Director says that the memo and the discussion note were part of briefing packages prepared by CABRO’s Senior Executive Lead for discussion with the Minister responsible for CABRO. The Director says that following these discussions, the information in the discussion note and memo became the subject of submissions considered by the Appointments Committee. The Director says that the information severed from the memo and the note consists of advice, recommendations and/or policy considerations prepared for submission to members of the Appointments Committee for their deliberation.

[33] The Ministry says that this information was the subject of the Appointments Committee’s deliberations and fits clearly and directly into the purpose and function of the class of information contemplated by s. 12(1).<sup>31</sup>

[34] The applicant says that some of the information has been disclosed which “waives secrecy” over the remainder of the records.<sup>32</sup>

---

<sup>29</sup> Ministry’s initial submissions, para 73.

<sup>30</sup> The information in this paragraph is from the affidavit of the Director at paras 19 and 20.

<sup>31</sup> Ministry’s initial submissions, para 73.

<sup>32</sup> Applicant’s submissions, pages 2-3, and 14.

[35] In reply, the Ministry says that the applicant misunderstands the meaning of “waiver”.<sup>33</sup> It says that legal meaning of waiver is a defence only applicable to solicitor-client privilege. The Ministry explains that s. 12(1) requires line-by-line severing and the Ministry has been careful only to withhold the information that would reveal the substance of deliberations.

[36] Based on the evidence of the Director, which I accept, I am satisfied that the information withheld under s. 12(1) in the discussion note and memo, if disclosed, would reveal the substance of deliberations of the Appointments Committee. The Director’s evidence clearly indicates that although the information was prepared by CABRO, if disclosed, it would reveal the substance of deliberations of the Appointments Committee within the meaning of s. 12(1). Therefore, I am satisfied the requirements of s. 12(1) are met.

[37] With regards to the applicant’s submissions about waiver, I do not see how it applies. “Waiver” is a distinct legal term with a specific meaning, which relates solely to privilege. However, I think what the applicant is arguing is that the Ministry has severed the information in s. 12(1) in an inconsistent way. I have reviewed the information in dispute and I am not satisfied that this has occurred.

### *Summaries*

[38] The Ministry submits that the summaries, if disclosed, would reveal the substance of deliberations of Cabinet.

[39] The Director says that the summaries were provided to Cabinet Operations for distribution to Cabinet members in advance of the December 13, 2017 and December 4, 2019 Cabinet meetings.<sup>34</sup> The Ministry has also provided evidence from the Records Management Officer at the Office of the Premier who says that the summaries at issue in this inquiry are identical to the relevant summaries found in Cabinet Operations’ internal records.<sup>35</sup>

[40] The Director says that the information contained in the summaries contains substantive information that was the subject of Cabinet deliberations.<sup>36</sup>

[41] The applicant says that it is difficult to understand what information has been withheld from the summaries, since the Ministry withheld the entire pages.<sup>37</sup> He says “one can only guess perhaps that the information might relate to Orders-in-Council or some such.”

---

<sup>33</sup> The submissions in this paragraph are from the Ministry’s reply submissions, paras 21 - 23.

<sup>34</sup> Affidavit of the Director at para 25.

<sup>35</sup> Affidavit of the Records Management Officer at paras 9 and 13.

<sup>36</sup> Affidavit of the Director at para 25.

<sup>37</sup> The information in this paragraph is from the applicant’s submissions, page 2.



[42] The applicant also says that since the related Orders in Council are made public, the summaries should be provided.<sup>38</sup>

[43] In reply, the Ministry says that the purpose of the summaries is to provide Cabinet members with a listing of the Orders in Council up for discussion, which are the items that are to be the “substance of deliberations.”<sup>39</sup> It further says that an Order in Council is disclosable because it is an enactment issued under a statute and is therefore a record available to the public.

[44] I am satisfied that the summaries were provided to Cabinet in advance of the relevant Cabinet meetings and contain information that formed the basis for Cabinet’s deliberations. I am not persuaded by what the applicant says about the Orders in Council having been made public. I do not find it relevant to whether the information in the summaries is the “substance of deliberations” within the meaning of s. 12(1).

[45] However, the summaries also contain page numbers and headings with basic information such as a title and date. Past orders have found that “bare-bones” information such as headings or titles do not reveal the substance of deliberations.<sup>40</sup> I find that the headings and page numbers do not reveal the substance of deliberation and therefore cannot be withheld under s. 12(1).

*Section 12(2) – background explanations or analysis*

[46] Having found that some information would reveal the substance of deliberations of Cabinet or its committees, I must consider whether any of the circumstances in s. 12(2) apply. If information is of the type described in s. 12(2), it cannot be withheld under s. 12(1).

[47] Section 12(2) states that subsection (1) does not apply to:

- (a) information in a record that has been in existence for 15 or more years,
- (b) information in a record of a decision made by the Executive Council or any of its committees on an appeal under an Act, or
- (c) information in a record the purpose of which is to present background explanations or analysis to the Executive Council or any of its committees for its consideration in making a decision if
  - (i) the decision has been made public,
  - (ii) the decision has been implemented, or

---

<sup>38</sup> Applicant’s submissions, page 14, see also page 24.

<sup>39</sup> The information in this paragraph is from the Ministry’s reply submissions at paras 32-33.

<sup>40</sup> Order F18-24, 2018 BCIPC 27 at paras 39-40.

- (iii) 5 or more years have passed since the decision was made or considered

[48] I find that ss. 12(2)(a) and (b) do not apply. None of the records at issue under s. 12(1) are more than 15 years old. Neither party has argued that s. 12(2)(b) applies and there is nothing before me that indicates that it would.

[49] Under s. 12(2)(c) background explanations or analysis cannot be withheld under s. 12(1). “Background explanations” include everything factual that Cabinet used to make a decision, and “analysis” includes discussion about the background explanations but not analysis of policy options presented to Cabinet.<sup>41</sup> Section 12(2)(c) does not apply to background explanations or analysis interwoven with the substance of deliberations.<sup>42</sup>

[50] The Ministry submits that none of the information it withheld under s. 12(1) falls within the ambit of s. 12(2) as none of it is purely background information, explanation or analysis.<sup>43</sup>

[51] After reviewing the records, I conclude that none of the information at issue is background explanations or analysis.

[52] In conclusion, with the exception of the page numbers and headings in the summaries, I find that the Ministry is required to withhold the information in dispute under s. 12(1).

### **Section 13(1) – advice or recommendations**

[53] Section 13(1) allows a public body to refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister.

[54] The purpose of s. 13(1) is to prevent the harm that would occur if a public body’s deliberative process was exposed to public scrutiny.<sup>44</sup>

[55] The term “advice” is broader than “recommendations”<sup>45</sup> and includes an opinion that involves exercising judgment and skill to weigh the significance of matters of fact.<sup>46</sup> “Recommendations” include material relating to a suggested

---

<sup>41</sup> Order No. 48-1995, BCIPD No. 21 at para 13. This approach was confirmed by the BC Court of Appeal in *Aquasource supra* note 14.

<sup>42</sup> *Aquasource supra* note 14 at para 50.

<sup>43</sup> Ministry’s initial submissions at para 79.

<sup>44</sup> *Insurance Corporation of British Columbia v. Automotive Retailers Association* 2013 BCSC 2025 at para 52.

<sup>45</sup> *John Doe v Ontario (Finance)* 2014 SCC 36 [*John Doe*] at para 24.

<sup>46</sup> *College of Physicians of B.C. v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 at para 113.

course of action that will ultimately be accepted or rejected by the person being advised.<sup>47</sup> Section 13(1) also encompasses information that would allow an individual to make accurate inferences about any advice or recommendations.<sup>48</sup>

[56] The first step is to determine whether the information is advice or recommendations under s. 13(1). If it is, I must decide whether the information falls into any of the categories in s. 13(2) or whether it has been in existence for more than 10 years under s. 13(3). If ss. 13(2) or 13(3) apply to any of the information, that information cannot be withheld under s. 13(1).

[57] The information in dispute under s. 13(1) is the information in the column “Suggested Term” on a form titled “Request for Appointment (RFA) Checklist”<sup>49</sup> and portions of two emails.<sup>50</sup>

[58] The Ministry says that this information contains the substance of advice or recommendations developed by CABRO or by the Commission’s special committees.<sup>51</sup> It submits that the context of the information has been disclosed and that it has only withheld the content of the advice and recommendations contained in the records. Specifically, it says that the emails contain advice and recommendations from the Chair of the Health Professions Review Board and the Chair of the Health Care Practitioners Special Committees to CABRO, respectively. Regarding the “Request for Appointment (RFA) Checklist”, the Ministry says that the withheld information contains advice from the Commission’s hearing coordinator about the suggested term length of appointments for members of Health Care Practitioners Special Committee for Audit Hearings.

[59] The applicant says that the reappointment terms are not matters that should attract s. 13(1).<sup>52</sup> He says it is not clear what “policy” is being referred to and that s. 13(1) does not apply to the “simple sharing of information.”<sup>53</sup> The applicant also says that there is considerable information that the Ministry has disclosed and it is not clear why some would be released but not others.<sup>54</sup>

[60] For the following reasons, I find that disclosing the information in dispute would reveal advice or recommendations within the meaning of s. 13(1).

---

<sup>47</sup> *John Doe supra* note 45 at para 23.

<sup>48</sup> Order F19-28, 2019 BCIPC 30 at para 14.

<sup>49</sup> Page 47 of the records in dispute.

<sup>50</sup> Page 32, 44 of the records in dispute.

<sup>51</sup> Information in this paragraph is from the Ministry’s initial submissions at paras. 94, 96 – 98 and the Affidavit of the Director at paras. 27, 28 and 32.

<sup>52</sup> Applicant’s submissions, page 4.

<sup>53</sup> Applicant’s submissions, page 3.

<sup>54</sup> Applicant’s submissions, page 3.

[61] In my view, disclosure of the information about the suggested term length on the Request for Appointment Checklist would reveal “recommendations”. It is a suggested course of action that is free to be accepted or rejected by the decision maker. In other words, I accept that the decision maker could decide whether to appoint the members for the term length suggested by the hearing coordinator.

[62] I also find that the disputed information in the emails constitutes “recommendations”. The emails each contain a suggested course of action provided to CABRO.

[63] With respect to what the applicant says about it not being clear why the Ministry withheld some information but not all, I note that s. 13(1) is a discretionary exception. Public bodies are not required to withhold everything that is advice or recommendations and they may use their discretion to choose whether to voluntarily disclose information that could fall into s. 13(1).

[64] In conclusion, I am satisfied disclosing the information in the Request for Appointment Checklist and the two emails would reveal advice or recommendations within the meaning of s. 13(1).

*Sections 13(2) and (3)*

[65] Having found that the information in dispute reveals advice or recommendations within the meaning of s. 13(1), I must also consider whether any of the provisions in ss. 13(2) or (3) apply. If any of these circumstances apply, the information cannot be withheld.

[66] Section 13(2) sets out types of records and information that cannot be withheld under s. 13(1). The applicant says that s. 13(2)(a) may apply and he leaves it to me to decide since he cannot see any of the redacted material.<sup>55</sup>

[67] Section 13(2)(a) says that a public body must not refuse to disclose “factual material” under s. 13(1). “Factual material” is distinct from factual “information” and includes source materials or background facts not necessary to an expert’s advice or the relevant deliberative process.<sup>56</sup>

[68] The information at issue is not the kind of discrete material contemplated by s. 13(2)(a). I find that s. 13(2)(a) does not apply. I am also not satisfied that the information in dispute falls into any of the other categories in s. 13(2).

---

<sup>55</sup> Applicant’s submissions, pages 3 – 4.

<sup>56</sup> *Provincial Health Services Authority v. British Columbia (Information and Privacy Commissioner)*, 2013 BCSC 2322 at paras 91 – 94.

[69] Section 13(3) says that s. 13(1) does not apply to information that has been in existence for 10 or more years. None of the records are more than 10 years old, and so I find that s. 13(3) does not apply.

[70] In conclusion, I find that s. 13(1) applies to the information in the “Request for Appointment” and both of the emails.

***Section 22(1) – unreasonable invasion of personal privacy***

[71] Section 22(1) requires a public body to refuse to disclose information if disclosure would be an unreasonable invasion of a third party’s personal privacy.

[72] The Ministry withheld the following information under s. 22(1):

- Information provided by candidates on Candidate Profile and Declaration forms<sup>57</sup> (profiles) including;
  - the candidates’ phone numbers, home addresses, email addresses, and birth dates;
  - some of the candidates’ responses to questions about their background, for example: their educational, professional and employment background, directorships, community and civic activities, publications, and lobbying clients;
  - the candidates’ responses to questions about integrity and public accountability;
  - one candidate’s response to CABRO’s request for consent to verify or obtain information from additional organizations;
  - the names, occupations, street addresses, email addresses, telephone numbers of the candidates’ references; and
  - some information in a candidate’s resume attached to one of the profiles;
- Responses to some questions and the statement of recommendation on two “Board Member Performance Appraisal Forms” (appraisal forms);<sup>58</sup>
- A column on a form indicating the gender of third parties;<sup>59</sup> and
- A small amount of information in emails, including addresses of third parties<sup>60</sup> and what the Ministry says is the “private reason for a member’s resignation from the Committee.”<sup>61</sup>

---

<sup>57</sup> Pages 14-30 and 38-43 of the records in dispute.

<sup>58</sup> Pages 6 and 45-46 of the records in dispute.

<sup>59</sup> Pages 7-8 and 60-61 of the records in dispute.

<sup>60</sup> Ministry’s initial submissions, para 118. Information located at page 59 of the records in dispute.

<sup>61</sup> Ministry’s initial submissions, para 118. Information at page 2 of the records in dispute.

[73] The applicant says he is not interested in contact information, birth dates, or gender of third parties.<sup>62</sup> Specifically, he says he is not interested in contact information of the references.

[74] As I explain below, “contact information” is a defined term in FIPPA; however, I am satisfied that the applicant is using this term in a more general sense. For example, he specifically says that “if the [...] redaction on p. 59 is only an address, I am not interested.”<sup>63</sup>

[75] As a result, I find that phone numbers, street addresses, email addresses, gender and birth dates of the candidates and other third parties are not in dispute. For clarity, I confirm that the names and occupations of the candidates’ references are still in dispute.

*Is the information “personal information” under FIPPA?*

[76] The first step is to determine whether the information in dispute is “personal information” within the meaning of FIPPA.

[77] FIPPA defines “personal information” and “contact information” in the following way:

"personal information" means recorded information about an identifiable individual other than contact information;

"contact information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;

[78] Under the above definitions, information that is “contact information” is not “personal information” for the purpose of FIPPA. Whether information is “contact information” depends on the context in which it appears.<sup>64</sup>

[79] The Ministry submits that all of the information in dispute under s. 22(1) is personal information. For example, the Ministry says that information provided by the candidates on their profiles is clearly identifiable information about them.<sup>65</sup>

[80] I am satisfied that all of the information in dispute under s. 22(1) is “personal information” because it is information that is about an identifiable individual and is not contact information.

---

<sup>62</sup> Applicant’s submissions, page 25 - 26.

<sup>63</sup> Applicant’s submissions, page 26.

<sup>64</sup> Order F20-13, 2020 BCIPC 15 at para 42.

<sup>65</sup> Ministry’s initial submissions, para 117.

*Section 22(4) – not an unreasonable invasion*

[81] The next step in the analysis is to determine if any of the circumstances in s. 22(4) apply to any of the personal information in dispute. If s. 22(4) applies, disclosure of personal information is not an unreasonable invasion of a third party's personal privacy and the information must be disclosed.

[82] The Ministry argues that none of the subsections in s. 22(4) apply. Specifically, the Ministry says that none of the information falls under s. 22(4)(e). Section 22(4)(e) says that information about a third party's position, functions or remuneration as an officer, employee or member of a public body is not an unreasonable invasion of that third party's personal privacy.<sup>66</sup>

[83] The applicant cites various provisions under s. 22(4) but it is not clear whether he is arguing that any actually apply.<sup>67</sup>

[84] I have reviewed the information in dispute and am satisfied that none of the information falls into any of the categories under s. 22(4) including s. 22(4)(e).

*Section 22(3) – presumptions*

[85] Section 22(3) lists circumstances where disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. The next step in the analysis is to consider whether any of these circumstances apply. The Ministry submits that three different circumstances apply and I will consider each in turn.

Medical history – s. 22(3)(a)

[86] Under s. 22(3)(a) disclosure of personal information that relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation is presumed to be an unreasonable invasion of that third party's personal privacy.

[87] The Ministry submits that s. 22(3)(a) applies to a question on one of the profiles relating to whether or not a potential candidate has a disability that requires accommodation.<sup>68</sup>

[88] The applicant says that he is only interested in medical history if it raises a conflict of interest. He says that if the medical history is only incidental and does

---

<sup>66</sup> Ministry's initial submissions, para 123.

<sup>67</sup> Applicant's submissions, page 28.

<sup>68</sup> Ministry's initial submissions, para 128. Information located at page 22 of the records in dispute.

not relate to conflict of interest or bias, he is not interested.<sup>69</sup> I am not sure what the applicant means by this and I am not going to speculate.

[89] As I found in Order F21-66, information about whether or not a third party has a disability that would require accommodation relates to that third party's medical, psychiatric or psychological history under s. 22(3)(a).<sup>70</sup> I make the same finding here. As a result, disclosure of the candidate's response to this question is presumed to be an unreasonable invasion of their personal privacy.

Employment, educational or occupational history – s. 22(3)(d)

[90] Under s. 22(3)(d) disclosure of personal information that relates to a third party's employment, occupational or educational history is presumed to be an unreasonable invasion of their personal privacy.

[91] The Ministry says that the personal information it withheld on the profiles relating to the candidates' positions as current or past directors or officers is their occupational history as it is about formal positions they held.<sup>71</sup> The Ministry also submits that a candidate's response to a question about whether they had ever served as treasurer or finance committee member or chair is about their formal position and should be withheld under s. 22(3)(d).<sup>72</sup> Finally, the Ministry says that whether one of the candidates has acted as a lobbyist is information that is presumed to be an unreasonable invasion of their personal privacy under s. 22(3)(d).<sup>73</sup>

[92] The Ministry says it also withheld portions of the resume because it is one of the candidate's employment or occupational history within the meaning of s. 22(3)(d).<sup>74</sup>

[93] I am satisfied that most of the personal information that the Ministry has identified above is the candidates' employment or occupational histories.

[94] Past orders have repeatedly found that the information on a resume is the type of information to which s. 22(3)(d) applies.<sup>75</sup> I make the same finding here.

[95] In addition, I am satisfied that the information on the profiles about the candidates' past directorships and community and civic activities is their occupational history. I also find that the information in dispute about one

---

<sup>69</sup> Applicant's submissions, page 26.

<sup>70</sup> Order F21-66, 2021 BCIPC 77 at paras 37-38.

<sup>71</sup> Ministry's initial submissions, para 134.

<sup>72</sup> Ministry's initial submissions, para 135.

<sup>73</sup> Ministry's reply submissions, para 55.

<sup>74</sup> Ministry's initial submissions, para 133 citing Order 01-18, [2001] BCIPCD No. 19 at paras 15 and 30, and Order F14-41, 2014 BCIPC 44 at para 46 and footnote 30.

<sup>75</sup> Order F14-41, 2014 BCIPC 44 at para 46 for example.



candidate's professional and employment background and directorships is their employment or occupational history. Finally, I accept that the candidate's response about whether they had served as a treasurer, finance committee member or chair relates to their occupational history.

[96] However, the Ministry already disclosed whether or not one of the candidates was involved in any lobbying activities,<sup>76</sup> so there is no need for me to make a finding regarding this information.

[97] The applicant says that the fact that some but not all of this information was released is a waiver of the information in dispute. As explained above, waiver has a specific legal meaning that does not apply in this context. Furthermore, based on my review of the records, nothing supports the applicant's claim that the Ministry is withholding any information under s. 22(1) that has already been disclosed.

[98] Also, while not argued by the Ministry, I have considered whether the reason for the member's resignation that the Ministry withheld from an email is their occupational history. In Order 02-45, former Commissioner Loukidelis said that the reason for leaving a job is the kind of information falling under s. 22(3)(d).<sup>77</sup> As a result, I find that this information is the member's occupational history, and therefore that disclosure is presumed to be an unreasonable invasion of their personal privacy under s. 22(3)(d).

#### Personal recommendations or evaluations – s. 22(3)(g)

[99] Under s. 22(3)(g), personal information that consists of personal recommendations or evaluations, character references or personnel evaluations about a third party is presumed to be an unreasonable invasion of that third party's personal privacy. Past orders have found that s. 22(3)(g) applies to formal evaluations of an individual's performance.<sup>78</sup>

[100] The Ministry says that s. 22(3)(g) applies to the withheld information in two performance appraisals.<sup>79</sup> The two versions of the performance appraisals are slightly different but the withheld information on both is of a similar nature. The Ministry withheld the responses of the appraiser to questions about the degree and value of participation of the third party, their commitment to the organization's mandate,<sup>80</sup> their attendance during the appraisal period, the fit of their skillset,<sup>81</sup> whether the third party is recommended for reappointment and the

---

<sup>76</sup> Question 5 on page 39 of the records in dispute.

<sup>77</sup> Order 02-45, 2002 CanLII 42479 (BC IPC) at para 21.

<sup>78</sup> Order F05-30, 2005 CanLII 32547 (BC IPC) at para 41.

<sup>79</sup> Ministry's initial submissions, para 138. Pages 6 and 45 of the records in dispute.

<sup>80</sup> The Ministry disclosed the response of the appraiser on the appraisal at page 6.

<sup>81</sup> This question only appears on the appraisal at page 45.

appraiser's additional comments.<sup>82</sup> All other information on the appraisals has been disclosed, such as the questions, headings, the name of the appraiser and the names the third parties being evaluated.

[101] The Ministry says that CABRO requires the appraisal forms to be completed any time a board or tribunal member wishes to be considered for reappointment.<sup>83</sup>

[102] The applicant says that the redactions on the performance appraisals are inappropriate because of the public interest.<sup>84</sup> The crux of this argument is about public scrutiny and so I will address it under s. 22(2)(a) below.

[103] I find that the withheld information on the performance appraisals constitutes a personnel evaluation under s. 22(3)(g). The information on the performance appraisals is the kind of formal evaluation of an individual's performance contemplated by s. 22(3)(g). Consequently, I find that disclosure of this information is presumed to be an unreasonable invasion of the third parties' personal privacy.

#### *Section 22(2) – relevant circumstances*

[104] The next step in the analysis is to determine whether there are any relevant circumstances, including those listed in s. 22(2). Some circumstances weigh in favour of disclosure and some against. Relevant circumstances that weigh in favour of disclosure may rebut any applicable presumptions under s. 22(3).

#### Public scrutiny – s. 22(2)(a)

[105] Section 22(2)(a) is about whether disclosure of the personal information in dispute is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny. Section 22(2)(a) recognizes that, where disclosure of the information in dispute would foster accountability of a public body, this may provide a foundation for finding that disclosure would not constitute an unreasonable invasion of a third party's personal privacy.<sup>85</sup> It is well established that the purpose of s. 22(2)(a) is to make public bodies accountable, not individual third parties.<sup>86</sup>

[106] The applicant says that disclosure of the information in dispute is desirable for public scrutiny. The applicant says that when a third party tenders information

---

<sup>82</sup> The Ministry disclosed the additional comments on the appraisal located at page 45.

<sup>83</sup> Ministry's initial submissions, para 137.

<sup>84</sup> Applicant's response submissions, pages 9 and 11.

<sup>85</sup> Order F05-18, 2005 CanLII 24734 (BC IPC) at para. 49.

<sup>86</sup> Order F18-47, 2018 BCIPC 50 at para. 32, for example.

about themselves, it should be expected that the public would want to scrutinize that information.<sup>87</sup> He points to the quasi-judicial nature of the third parties' appointments<sup>88</sup> and says that those individuals should be held to a high standard.<sup>89</sup> The applicant's submissions indicate that he is particularly interested in information relating to any conflict of interest that the third parties may have.<sup>90</sup>

[107] With regards to the profiles, the applicant says that civic activities and past directorships can be sources of potential conflicts of interest.<sup>91</sup> He also says that the responses to the integrity and public accountability questions are of great public relevance and should be revealed.<sup>92</sup> In addition, the applicant says that the withheld information relating to lobbying is of general public interest.<sup>93</sup>

[108] In reference to the performance appraisals, the applicant says that they do not attract secrecy. He says they are part of the decision to re-appoint individuals, which takes into account the "burden of potential conflicts or past improprieties", both of which are of high interest to the public and for the latter reason that "re-appointments are so scrutinized."<sup>94</sup>

[109] The Ministry says that the applicant has made spurious allegations and has not provided any evidence beyond mere speculation to establish a link between the past actions of the third parties and the activities of any relevant public body.<sup>95</sup>

[110] I am not persuaded that disclosure of any personal information in dispute is desirable for public scrutiny of any public body.

[111] First, I note that the applicant is mainly interested in information relating to conflicts of interest. The profiles each include a series of questions about the candidates' conflicts of interest. In Order F21-67, I found that knowing whether or not a candidate had any potential conflicts of interests with the public sector organization to which they were appointed would foster accountability of that organization.<sup>96</sup> Consistent with Order F21-67, the Ministry disclosed all of the candidates' responses to these questions on the profiles at issue in this inquiry.

[112] I do not see how disclosure of the remaining personal information in dispute would foster accountability of a public body, with regards to conflicts of

---

<sup>87</sup> Applicant's submissions, page 25.

<sup>88</sup> Applicant's submissions, page 11, for example.

<sup>89</sup> Applicant's submissions, page 30, for example.

<sup>90</sup> Applicant's submissions, page 26, for example.

<sup>91</sup> Applicant's submissions, page 10.

<sup>92</sup> Applicant's submissions, page 11.

<sup>93</sup> Applicant's submissions, page 9.

<sup>94</sup> Applicant's response submissions, page 15.

<sup>95</sup> Ministry's reply submissions, paras 51 and 54.

<sup>96</sup> Order F21-67, 2021 BCIPC 78 at para 68.

interest or otherwise. As I stated above, s. 22(2)(a) is about public scrutiny of a *public body*. The applicant's arguments mainly relate to why he thinks the third parties named in his access request should be scrutinized.

[113] For example, the performance appraisals of the third parties are clearly about how they have performed their role. I do not see how disclosing this information is desirable for public scrutiny of a public body. Similarly, I am not persuaded that disclosing the candidates' backgrounds such as their civic activities would enable the public to scrutinize a public body, especially keeping in mind that the candidates' responses to questions about any potential conflicts of interest have already been disclosed.

[114] The applicant also says that the candidates' responses to the integrity and public accountability questions should be disclosed. In Order F21-67, I found that, absent a specific link between the past actions of the third party and the activities of the organization, the responses to the integrity and public accountability questions were not desirable for public scrutiny of a public body.<sup>97</sup> I see no such link here.

[115] Overall, I am not satisfied that any of the information in dispute is desirable for public scrutiny of a public body.

Information relevant to a fair determination of the applicant's rights –  
s. 22(2)(c)

[116] Section 22(2)(c) applies where the personal information is relevant to a fair determination of the applicant's rights. If it applies, it weighs in favour of disclosing the personal information in dispute to the applicant. The following four criteria must be met in order for this circumstance to apply:

1. The right in question must be a legal right drawn from the common law or a statute, as opposed to a non-legal right based only on moral or ethical grounds;
2. The right must be related to a proceeding which is either under way or is contemplated, not a proceeding that has already been completed;
3. The personal information sought by the applicant must have some bearing on, or significance for, determination of the right in question; and
4. The personal information must be necessary in order to prepare for the proceeding or to ensure a fair hearing.<sup>98</sup>

<sup>97</sup> Order F21-67, 2021 BCIPC 78 at para 71.

<sup>98</sup> Order 01-07, 2001 CanLII 21561 (BCIPC) at para 31.

[117] The applicant says that “it is evident that the ... information sought is relating to proceedings which may be underway or is contemplated.”<sup>99</sup>

[118] In reply, the Ministry says that the information is not related to a proceeding that is underway or contemplated.<sup>100</sup> More specifically, the Ministry says that the applicant’s audit hearing was held in 2020 and the applicant declined to participate. It further says that the applicant’s petition for judicial review of that decision was struck because it was filed beyond the limitation period set out in the *Medicare Protection Act*.

[119] The Ministry also submits that the personal information is not necessary to prepare for any proceeding or ensure a fair hearing because the applicant was provided with unredacted disclosure of records through the Commission’s hearing process. It says that any judicial review would be on the record before the Commission’s hearing panel and no new material would be admissible.

[120] I am not persuaded that s. 22(2)(c) is a relevant circumstance. The applicant has not provided enough detail to satisfy me that any of the four criteria are met. For example, it is not clear to me what proceeding is underway or contemplated or how the information in dispute has any bearing on the determination of the right in question. As a result, I find that s. 22(2)(c) does not apply.

Supplied in confidence – s. 22(2)(f)

[121] Section 22(2)(f) requires that a public body consider whether the information was supplied in confidence. If it applies, s. 22(2)(f) is a circumstance weighing in favour of withholding the information.

[122] The Ministry says that the information on both profiles was supplied in confidence and that this is a factor weighing in favour of withholding the information supplied by the candidates on the profiles.<sup>101</sup> More specifically, the Ministry says that the profiles state that the information submitted on them will be considered to be supplied in confidence and that the purpose of any disclosure is to assess an individual’s suitability for a public sector position on a governing board or tribunal.

[123] In addition, the Ministry says that any biographical information released should be limited to the biographies actually provided by the candidates.

---

<sup>99</sup> Applicant’s submissions, page 28.

<sup>100</sup> The Ministry’s arguments with regard to s. 22(2)(c) are from its reply submissions at paras 45 - 48.

<sup>101</sup> The Ministry’s arguments about s. 22(2)(f) are set out in initial submissions at paras 149 – 160.

[124] The applicant says that the template language in the profiles indicates that “any information tendered to CABRO can be disseminated”.<sup>102</sup>

[125] For the following reasons, I find that the information on the profiles was supplied in confidence.

[126] The profiles in this case do contain template language stating that the information submitted on the profiles is considered to be supplied in confidence. In Order F21-66, I made the following finding regarding this template language:

I do not think that the template language, on its own, is a strong indicator of the Candidates’ subjective expectations of confidentiality. However, combined with the types of information that the Candidates are required to provide on the Profiles, I find that the Candidates would have had some expectation that the information would not be shared other than for the specified purpose of assessing the Candidate’s suitability for a position.<sup>103</sup>

[127] I make the same finding here.

[128] However, both of the profiles indicate that, if appointed, CABRO<sup>104</sup> may publish a biography of the candidates, but, as I will further explain, the exact wording on the profiles is different.

[129] One of the profiles states that CABRO may publish a biography that contains some or all of the information in certain sections of the profile including the candidate’s past and present directorships and their past and present community and civic activities. The profile then says “(If you wish, you may attach a short (i.e., 100 words) biography of yourself for publication purposes.)”

[130] The profiles at issue in Order F21-66 also specified that information in certain sections of the profile could be disclosed in a public biography. I found that the information in these sections were not supplied in confidence. Further, I find that the fact that the candidates supplied this information with the expectation that it could be shared publicly was its own relevant circumstance, weighing in favour of disclosure.<sup>105</sup>

[131] The other profile says that CABRO may publish a biography but does not specify any particular sections of the profile that it would draw this information from. It then says “Optional: include a 100 word biography below.”

---

<sup>102</sup> Applicant’s submissions, page 27.

<sup>103</sup> Order F21-66, 2021 BCIPC 77 at para 76.

<sup>104</sup> The profiles actually say the “Board Resourcing and Development Office” which was the former name of CABRO.

<sup>105</sup> Order F21-66, 2021 BCIPC 77 at para 77.

[132] Both candidates supplied their own biographies and the Ministry disclosed those biographies to the applicant.

[133] The Ministry argues the disclosure should be limited to the information the candidates actually provided in their biographies.<sup>106</sup> I gather this means the Ministry thinks that I should not order it to disclose any further information on the profiles.

[134] I am persuaded by what the Ministry says in this regard. I accept that CABRO gave the candidates the option to control the content of their public biographies and the candidates exercised that option. As a result, on balance, I think that the candidates would not have expected further information to be disclosed. As a result, I find that the candidates supplied the information on the profiles in confidence.

### Sensitivity

[135] Sensitivity is not included in the list of circumstances set out in s. 22(2)(a) of FIPPA. However, many past orders have found that it is a relevant circumstance. Where personal information is sensitive, that is a factor weighing in favour of withholding the information. Conversely, where the personal information is not sensitive, this factor can weigh in favour of disclosure.

[136] The Ministry submits that the information in the integrity and public accountability sections of the profiles is highly sensitive personal information.<sup>107</sup>

[137] In Order F21-66, I said the following about the responses to the integrity and public accountability questions:

In my view, the questions in the integrity and public accountability section of the Profiles clearly ask about sensitive matters, such as whether a candidate has been charged or convicted of an offence under the Criminal Code, promoted hate or has had any improper dealings with government.

While I think that the degree of sensitivity depends on the specific information provided, I find that the information is at least somewhat sensitive regardless of the response provided. For example, an affirmative answer along with extensive details would almost certainly be more sensitive than a negative answer with no details. However, a negative answer is still somewhat sensitive because of the nature of the questions.

Therefore, I find this is a factor weighing in favour of withholding the information in the integrity and public accountability sections of the Profiles,

---

<sup>106</sup> Ministry's initial submissions, para 160.

<sup>107</sup> Ministry's initial submissions, para 162.

but explaining the exact degree to which I find the information to be sensitive could disclose the information in dispute, so I decline to do so.<sup>108</sup>

[138] I make the same finding here.

[139] In addition, I find that some information in the profiles is not sensitive. Specifically, the personal information about one of the candidate's current directorships and publications and the response the candidate provided about the "additional organizations" is not sensitive. On the other profile, I find that the response to the "name of client" section regarding a question about lobbying is not sensitive.

*Conclusion – s. 22(1)*

[140] I found that all of the information in dispute is personal information and that none of the information falls into any of the categories in s. 22(4).

[141] With regard to the information on the profiles, I find that disclosing the information about one of the candidate's current directorships, publications and the "additional organizations" would not be an unreasonable invasion of their personal privacy. On the other profile, I find that disclosure of the candidate's response about the names of lobbying clients is not an unreasonable invasion of that candidate's personal privacy. I found that this information was supplied in confidence under s. 22(2)(f) but that it is not sensitive. I have weighed these factors and decided that that disclosure would not be an unreasonable invasion of the third parties' personal privacy.

[142] However, I find that disclosure of the remaining personal information in dispute on the profiles<sup>109</sup> would be an unreasonable invasion of a third party's personal privacy. Disclosure of some of this information is presumed to be an unreasonable invasion of the candidates' personal privacy under ss. 22(3)(a) and (d). I found it was supplied in confidence under s. 22(2)(f) and that the candidates' responses to the questions about integrity and public accountability are sensitive. There are no factors weighing in favour of disclosure.

[143] With regard to the performance appraisals, I find that disclosing the disputed information on them would be an unreasonable invasion of the third parties' personal privacy. I found that the appraisals are a personnel evaluation under s. 22(3)(g). There are no circumstances that weigh in favour of disclosure. As a result, I find s. 22(1) applies.

[144] The remaining information at issue is the "private reason for a member's resignation from the Committee" in an email. I found that s. 22(3)(d) applies. As

---

<sup>108</sup> At paras. 85-87.

<sup>109</sup> Including the resume attached to one profile.



there are no other relevant circumstances, I find that the presumption has not been rebutted and s. 22(1) applies.

## **CONCLUSION**

[145] For the reasons given above, I make the following order under s. 58 of FIPPA:

1. I confirm the Ministry's decision to withhold the information in dispute under s. 13(1).
2. Subject to item 3 below, I require the Ministry refuse the applicant access, in part, to the information in dispute under ss. 12(1) and 22(1).
3. I require the Ministry to give the applicant access to the highlighted parts of the information in dispute in the copy of the records provided to the public body with this order.
4. The Ministry must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicant, together with a copy of the records described at item 3 above.

[146] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by November 2, 2022.

September 16, 2022

## **ORIGINAL SIGNED BY**

---

Erika Syrotuck, Adjudicator

OIPC File No.: F20-82591