



Yukon  
Information  
and Privacy  
Commissioner

## **INQUIRY REPORT**

**Pursuant to Section 52 of the  
*Access to Information and Protection of Privacy Act***

**Department of Finance  
File ATP19-74R**

**Jason Pedlar, B.A., M.A.  
Information and Privacy Commissioner**

**December 18, 2023**

## Summary

In November of 2018, an applicant (the “Applicant”) made ten access requests to the Yukon Department of Finance (the “Department”) for the following sets of information:

- i. *All emails sent and received by the Deputy Minister [of Finance] between October 1<sup>st</sup>, 2018 and October 3<sup>rd</sup>, 2018;*
- ii. *Any emails sent or received by the ADM, Economics, Fiscal Policy & Statistics between October 25<sup>th</sup>, 2018 and November 7<sup>th</sup>, 2018 that reference ‘carbon tax’ or ‘carbon pricing’;*
- iii. *Any emails sent or received by anyone with the title ‘Management Board Analyst’ to different departments between August 6<sup>th</sup>, 2018 and August 13<sup>th</sup>, 2018;*
- iv. *Any emails sent or received by the Director, Management Board Secretariat to a different department between August 6<sup>th</sup> 2018 and August 13<sup>th</sup>, 2018;*
- v. *Any emails sent or received by the Capital Planning Analyst to a different department between October 1<sup>st</sup> and October 12<sup>th</sup>, 2018;*
- vi. *Any emails sent or received by anyone with the title ‘Management Board Analyst’ to a different department between October 1<sup>st</sup>, 2018 and October 12<sup>th</sup>, 2018;*
- vii. *Any emails sent or received by the Tax Policy Analyst in the Economics, Fiscal Policy & Statistics Branch referencing ‘carbon pricing’, ‘carbon tax’, or “fees” between October 22<sup>nd</sup>, 2018 and October 31<sup>st</sup>, 2018;*
- viii. *Any emails received by the Executive Assistant to the Deputy Minister between November 5<sup>th</sup>, 2018 and November 7<sup>th</sup>, 2018;*
- ix. *Any Documents produced by, distributed by or shared with the Director, Fiscal Relations between October 1<sup>st</sup>, 2018 and November 7<sup>th</sup>, 2018; and*
- x. *Emails to and from the ADM of Economics, Fiscal Policy and Statistics between August 10 and August 14 inclusive.*

The Department refused the Applicant access, in whole or in part, to the responsive records, citing as its authority subparagraphs 15(1)(a), 15(1)(b), 15(1)(c), 15(1)(d)(i), 15(1)(d)(ii), 16(1)(a), 16(1)(b), 16(1)(c), 16(1)(d), 17(1)(b), 17(1)(c), 17(1)(e), 20(1)(a), and 25(1).

The Applicant requested that the Information and Privacy Commissioner (the “IPC”) review the refusal. Settlement failed to resolve the matter and it proceeded to Inquiry.

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## Statutes Cited

*Access to Information and Protection of Privacy Act*, SY 2002, c.9 (the “Act”);

*Access to Information and Protection of Privacy Act*, SY 2018, c.9 (the “New Act”);

*Interpretation Act*, RSY 2002, c.125;

## Cases and Orders Cited

### Cases

*Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R 27;

*Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31;

*Canadian Council of Christian Charities v. Canada (Minister of Finance)*, 1999 4 FC 245;

*John Doe v. Ontario (Finance)*, 2014 SCC 36, [2014] 2 SCR 3.

### Orders

### Reports

## Explanatory Note

All sections, subsections, paragraphs and the like referred to in this inquiry report are to the Act, unless otherwise stated.

## I BACKGROUND

[2] In November of 2018, the Applicant made ten access requests for the following information from the Department:

- i. *All emails sent and received by the Deputy Minister [of Finance] between October 1<sup>st</sup>, 2018 and October 3<sup>rd</sup>, 2018 (the “First Request”);*
- ii. *Any emails sent or received by the ADM, Economics, Fiscal Policy & Statistics between October 25<sup>th</sup>, 2018 and November 7<sup>th</sup>, 2018 that reference ‘carbon tax’ or ‘carbon pricing’ (the “Second Request”);*

- iii. *Any emails sent or received by anyone with the title 'Management Board Analyst' to different departments between August 6<sup>th</sup>, 2018 and August 13<sup>th</sup>, 2018 (the "Third Request");*
- iv. *Any emails sent or received by the Director, Management Board Secretariat to a different department between August 6<sup>th</sup> 2018 and August 13<sup>th</sup>, 2018 (the "Fourth Request");*
- v. *Any emails sent or received by the Capital Planning Analyst to a different department between October 1<sup>st</sup> and October 12<sup>th</sup>, 2018 (the "Fifth Request");*
- vi. *Any emails sent or received by anyone with the title 'Management Board Analyst' to a different department between October 1<sup>st</sup>, 2018 and October 12<sup>th</sup>, 2018 (the "Sixth Request");*
- vii. *Any emails sent or received by the Tax Policy Analyst in the Economics, Fiscal Policy & Statistics Branch referencing 'carbon pricing', 'carbon tax', or "fees" between October 22<sup>nd</sup>, 2018 and October 31<sup>st</sup>, 2018 (the "Seventh Request");*
- viii. *Any emails received by the Executive Assistant to the Deputy Minister between November 5<sup>th</sup>, 2018 and November 7<sup>th</sup>, 2018 (the "Eighth Request");*
- ix. *Any Documents produced by, distributed by or shared with the Director, Fiscal Relations between October 1<sup>st</sup>, 2018 and November 7<sup>th</sup>, 2018 (the "Ninth Request"); and*
- x. *Emails to and from the ADM of Economics, Fiscal Policy and Statistics between August 10 and August 14 inclusive (the "Tenth Request");*

[3] Subsequently, the Records Manager assigned file numbers to the requests as follows:

- i. The First Request: Access Request No. A-7450;
- ii. The Second Request: Access Request No. A-7457;
- iii. The Third Request: Access Request No. A-7458;
- iv. The Fourth Request: Access Request No. A-7459;
- v. The Fifth Request: Access Request No. A-7460;
- vi. The Sixth Request: Access Request No. A-7461;
- vii. The Seventh Request: Access Request No. A-7462;
- viii. The Eighth Request: Access Request No. A-7464;
- ix. The Ninth Request: Access Request No. A-7469; and
- x. The Tenth Request: Access Request No. A-7476.

[4] This report will deal with file number A-7464 (the "Access Request").

[5] The Records Manager subsequently advised the Applicant that the Department had identified records responsive to A-7464, but it was withholding them in full pursuant to the following provision(s):

- 15(1)(c);
- 16(1)(c);
- 16(1)(d);
- 17(1)(b);
- 17(1)(c);
- 20(1)(a); and
- 25(1).

[6] On January 3, 2019, the IPC received a request for review from the Applicant in accordance with section 52 and assigned an Informal Case Resolution investigator to attempt settlement.

[7] Subsequently, the IPC assigned file numbers as follows:

- i. IPC File No. ATP19-74R to A-7464; (the “IPC File”)

[8] From January 3, 2019 to May 2, 2019, the IPC attempted settlement of the IPC Files but we did not receive the records in an acceptable format and with sufficient detail explaining the Department’s rationale for refusing access to the records in full or in part. We also learned that the Department had not done a line-by-line review of the records at the time of responding to the access requests and was not aware it was required to release any parts of a record where there was not an exception to the right of access.

[9] As such, the IPC escalated the file to Inquiry.

## II JURISDICTION

[10] The authority of the IPC to review the Department’s decisions to refuse to provide an applicant with access to records is set out in subsection 48(1).

[11] These Inquiries are required to proceed under the jurisdiction of the Act pursuant to subsection 130(3) of the New Act.

### III INQUIRY PROCESS

[12] On May 2, 2019, the IPC issued written Notices of Inquiry to the parties wherein the issues for review were set out.

[13] Also on May 2, 2019, the IPC issued Notices to Produce Records to the Department. It required the Department to produce a complete, unredacted copy of all records identified as responsive to the Access Requests, inclusive of a schedule of records.

[14] Issues with the organization, formatting, and completeness of the Records produced by the Department persisted throughout the Inquiry process leading to significant delays.

[15] On August May 24, 2019, the Department provided its submissions to the IPC in response to the Applicant's request for review.

[16] The Applicant provided the IPC with no submissions.

### IV ATIPPA BROUGHT INTO FORCE

[17] On April 1, 2021, the New Act was brought into force and the Act was repealed. Section 130 of the New Act states as follows:

*130(1) The commissioner must, without delay after the coming into force of this section, take one of the actions under subsection (2) if*

*(a) The commissioner had received a request for a review made under 48(1), (2) or (4) of the former Act, or a request for a review of a complaint made under subsection 48(3) of the former Act, before coming into force of this section; and*

*(b) the commissioner had not, as of the day on which this section came into force, commenced the review, by means of an inquiry or investigation.*

*(2) The actions for the purpose of subsection (1) are the following:*

*(a) to conduct a review by means of an inquiry of the request for a review or an investigation of the complaint as if the former Act had not been repealed;*

*(b) to treat the request made under the former act as if it had been filed under section 90 of this Act on the day on which section 90 came into force...*

*(3) The former Act (including the requirement for a decision by a public body under subsection 58(1) of the former Act and any appeal to the Court under subsection 59(1) of the former Act) applies as if it had not been repealed in respect of a review of a request or a complaint made under the former Act if the commissioner has not concluded the review by means of an inquiry or investigation on or before the day immediately before the coming into force of this section.*

*(4)...*

[18] Our office received the Applicant's Request for Review of the Department's decision on the Access Requests from the Applicant on April 11, 2019, and commenced Inquires into the matters on May 2, 2019. The Inquires had not concluded before the New Act went into effect on April 1, 2021. As such the Act applies to the matters under review.

### III ISSUES

[19] There are seven issues as follows:

- 1) Is the Department required by subparagraph 15(1)(c) to withhold the information sought by the Applicant in the Access Request?
- 2) Is the Department authorized by subparagraph 16(1)(c) to withhold the information sought by the Applicant in the Access Request?
- 3) Is the Department authorized by subparagraph 16(1)(d) to withhold the information sought by the Applicant in the Access Request?
- 4) Is the Department authorized by subparagraph 17(1)(b) to withhold the information sought by the Applicant in the Access Request?
- 5) Is the Department authorized by subparagraph 17(1)(c) to withhold the information sought by the Applicant in the Access Request?
- 6) Is the Department authorized by subparagraph 20(1)(a) to withhold the information sought by the Applicant in the Access Request?
- 7) Is the Department required by subparagraph 25(1) to withhold the information sought by the Applicant in the Access Request?



## IV RECORDS AT ISSUE

[20] The records responsive to ATP19-74R in the custody and control of the Department consist of records exported to 126 PDF-formatted pages. (the “Records”)

## V BURDEN OF PROOF

[21] Paragraph 54(1)(a) sets out the burden of proof relevant to this Inquiry. It states that the burden is on the public body head to prove that an applicant has no right to the records or to the information withheld from the records.

*54(1) In a review resulting from a request under section 48, it is up to the public body to prove...*

*(a) that the applicant has no right of access to the record...*

## VI SUBMISSIONS OF THE PARTIES

[22] The submissions of the Department and the Applicant are set out in the Analysis sections of this Inquiry Report, as may be relevant to each issue.

## VII ANALYSIS

**Issue 1 – Is the Department required by subsection 15(1)(c) of the Act to withhold, in full, portions of three Records sought by the Applicant in the Access Request?**

[23] The Department is relying on subparagraph 15(1)(c) to refuse, in part, the Applicant access to the Records. The provision states as follows:

### ***Relevant Law***

*15 (1) A public body must refuse to disclose a record to an applicant if the disclosure would reveal a confidence of the Executive Council or any of its committees, including:*

*(c) a record used for or reflecting consultation among Ministers on matters relating to the making of government decisions or the formulation of government policy;*

## ***Analysis***

### Paragraph 15(1)(c)

[24] Paragraph 15(1)(c) is a mandatory exemption provision; its purpose is to prevent the release of information which would reveal a record used for or reflecting consultation among ministers. If it applies to the information sought by the Applicant then the Department has no discretion about whether to disclose it; it must not.

[25] Record 3 contains pages 31 to 52 of the Record, pages 31 to 35 of which have been withheld pursuant to this paragraph. They contain an email with supporting attachment containing background information and recommendations with regard to a government policy.

[26] Record 17 contains one page which includes five emails discussing the timing of an upcoming meeting with a Minister.

[27] Record 18 contains one page which includes three emails discussing the inclusion of a certain party in an upcoming meeting.

[28] The Department makes no submission on this point and, in the absence of submissions, I cannot come to the conclusion that the discussions in Records 17 and 18 constitute consultation among ministers on matters relating to the making of government decisions or policy.

### Conclusion

[29] In light of the foregoing, I find that pages 31 to 35 of the Record have been properly withheld pursuant to paragraph 15(1)(c). The balance of the three records do not qualify for exemption to disclosure.

### **Issue 2 – Is the Department authorized by subsection 16(1)(c) of the Act to withhold, in full, 2 pages of the Records sought by the Applicant in the Access Request?**

[30] The Department is relying on subparagraph 16(1)(c) to refuse, in part, the Applicant access to the Records. The provision states as follows:

**Relevant Law**

*16 (1) A public body may refuse to disclose information to an applicant if the disclosure would reveal...*

*(c) a pending policy or budgetary decision of a public body;*

**Analysis**

Paragraph 16(1)(c)

[31] Paragraph 16(1)(c) is a discretionary exemption provision; its purpose is to prevent the release of information which may disclose information regarding a pending policy or budgetary decision of a public body.

[32] Having reviewed Record 12, it consists of 2 pages of emails which contain a spreadsheet detailing various proposed fee increases and the anticipated revenue associated with them.

[33] The proposed fee increases clearly constitute a pending policy or budgetary decision. As such the Department is entitled to rely on the paragraph.

Conclusion

[34] The Department has properly claimed records under paragraph 16(1)(c) and the same are exempt from disclosure.

**Issue 3 – Is the Department authorized by subsection 16(1)(d) of the Act to withhold, in full, 44 pages of the Records sought by the Applicant in the Access Request?**

[35] The Department is relying on subparagraph 16(1)(d) to refuse, in part, the Applicant access to the Records. The provision states as follows:

**Relevant Law**

*16 (1) A public body may refuse to disclose information to an applicant if the disclosure would reveal...*

*(d) the content of a draft Act, a draft regulation or a draft order of a Minister or of the Commissioner in Executive Council;*

## ***Analysis***

### Paragraph 16(1)(d)

[36] Paragraph 16(1)(d) is a discretionary exemption provision; its purpose is to prevent the release of information which may disclose a draft Act, regulation, or order of a Minister or of the Commissioner in Executive Council.

[37] As paragraph 16(1)(d) has not been considered by our office, I must determine if the release of Record 3 would constitute the contents of a draft Act, regulation, or order.

[38] Having reviewed Record 3, Pages 36 to 45 are clearly a draft order. As such, the Department is entitled to rely on this paragraph.

### Conclusion

[39] The Department has properly claimed records under paragraph 16(1)(d) and the same are exempt from disclosure.

### **Issue 4 – Is the Department authorized by subsection 17(1)(b) of the Act to withhold, in full, 31 pages of the Records sought by the Applicant in the Access Request?**

[40] The Department is relying on subparagraph 17(1)(b) to refuse, in part, the Applicant access to the Records. The provision states as follows:

#### ***Relevant Law***

*17 (1) A public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the Government of the Yukon or the ability of that Government to manage the economy, including the following information...*

*(b) financial, commercial, scientific or technical information that belongs to a public body or to the Government of the Yukon and that has, or is reasonably likely to have, monetary value;*

## ***Analysis***

### Paragraph 17(1)(b)

[41] Paragraph 17(1)(b) is a discretionary exemption provision; its purpose is to prevent the release of information which may harm the financial or economic interests of the Government of Yukon.

[42] As paragraph 17(1)(b) has not been considered by our office, I must determine if the release of Records 2 and 5 would constitute (1) a plan that relates to the management of personnel or the administration of a public body not yet implemented or made public; and (2) a harm to the financial or economic interest of a public body, or the Government of Yukon, or the ability of that Government to manage the economy.

[43] Having reviewed Records 2 and 5, it is unclear to me what monetary value the records may hold. The Department makes no submissions on this point.

[44] The second stage of the test is to determine whether release of the information contained in Records 2 and 5 could reasonably be expected to harm the financial or economic interests of the Government of Yukon, or interfere with its ability to manage the economy of the Yukon.

[45] The Department made no submission on this point, and without guidance from the department, it is difficult to ascertain what the nature of the harm or interference would be in this situation.

[46] As I have found above that the Department is not entitled to rely on paragraph 17(1)(b), it is not necessary to analyse whether such discretion was reasonably acted upon.

### Conclusion

[47] The Department has failed to meet its burden of proof that the records in question are exempt pursuant to paragraph 17(1)(b).

**Issue 5 – Is the Department authorized by subsection 17(1)(c) of the Act to withhold, in full, 1 page of the Records sought by the Applicant in the Access Request?**

[48] The Department is relying on subparagraph 17(1)(c) to refuse, in part, the Applicant access to the Records. The provision states as follows:

***Relevant Law***

*17 (1) A public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the Government of the Yukon or the ability of that Government to manage the economy, including the following information...*

*(c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;*

***Analysis***

**Paragraph 17(1)(c)**

[49] Paragraph 17(1)(c) is a discretionary exemption provision; its purpose is to prevent the release of information which may harm the financial or economic interests of the Government of Yukon.

[50] As paragraph 17(1)(c) has not been considered by our office, I must determine if the release of Record 21 would constitute (1) a plan that relates to the management of personnel or the administration of a public body not yet implemented or made public; and (2) a harm to the financial or economic interest of a public body, or the Government of Yukon, or the ability of that Government to manage the economy.

[51] Having reviewed the original access requests and Record 21, I am uncertain why it was responsive to the access request to begin with. Despite this, the record contains a discussion about a new hire and their starting salary. Potentially more importantly, the email also discusses another person who came second for the position, and other opportunities for that person. As such I find that the record contains a plan that relates to the management of personnel.

[52] The second stage of the test is to determine whether release of the information contained in Record 21 could reasonably be expected to harm the financial or economic interests of the Government of Yukon, or interfere with its ability to manage the economy of the Yukon.

[53] The Department made no submission on this point, and without guidance from the department, it is difficult to ascertain what the nature of the harm would be in this situation.

[54] Finally, the paragraph contains a saving clause which allows for information to be released via access request if it has otherwise already been implemented or made public.

[55] It is difficult to determine after the fact whether or not the personnel move had yet been implemented or made public as of the date of the access request. While the email is dated November 5, 2018 – the same date as the access request – it remains the Department's burden to show that the personnel management decision in question had not yet been implemented or made public. No submissions were made to this point by the Department.

[56] As I have found above that the Department is not entitled to rely on paragraph 17(1)(c), it is not necessary to analyse whether such discretion was reasonably acted upon.

### Conclusion

[57] For these reasons, I find that the Department has failed to meet its burden of proof that the records in question are exempt pursuant to paragraph 17(1)(c).

### **Issue 6 – Is the Department authorized by subsection 20(1)(a) of the Act to withhold, in full, 1 page of the Records sought by the Applicant in the Access Request?**

[58] The Department is relying on subparagraph 20(1)(a) to refuse the Applicant access to the Records. The provision states as follows:

#### ***Relevant Law***

*20 (1) A public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to...*

*(a) harm the conduct by the Government of the Yukon of relations between that Government and any of the following or their agencies:*

- (i) *the Government of Canada or a province or territory of Canada;*
- (ii) *the council of a municipality;*
- (iii) *a Yukon First Nation government or similar government established under a land claims settlement, the governing body of a band under the Indian Act (Canada), or other aboriginal authority or organization;*
- (iv) *the government of a foreign state; or*
- (v) *an international organization of states.*

### **Analysis**

#### Paragraph 20(1)(a)

[59] Paragraph 20(1)(a) is a discretionary exemption provision; its purpose is to prevent the release of information which may damage or interfere with the relationship between the Government of Yukon and the government of various other levels and jurisdictions.

[60] As paragraph 20(1)(a) has not been considered by our office, I must determine if Record 10 contains any information that, by its release, could reasonably be expected to harm the conduct of relations between the Government of Yukon and of the various types of organizations listed above.

[61] Record 10 contains an email chain, four messages long, between one or more employee of the Alberta Treasury Board and employee(s) of the Government of Yukon.

[62] The passage marked as objectionable is found in the second email, which is from an employee of the Alberta Treasury Board to an employee of the Government of Yukon.

[63] A reasonable expectation of harm must be more than a mere possibility but need not raise to the level of a probability.<sup>1</sup>

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<sup>1</sup> *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLii), at paras 52, 59.



[64] However, as the Department made no submissions on the application of paragraph 20(1)(a) to record 10 of IPC File No. ATP19-74R I can make no determination as to either the likelihood of harm or the nature of harm that the Department is suggesting.

[65] As I have found above that the Department is not entitled to rely on paragraph 20(1)(a), it is not necessary to analyse whether such discretion was reasonably acted upon.

### Conclusion

[66] For these reasons, I find that the Department has failed to meet its burden of proof that the records in question are exempt pursuant to paragraph 20(1)(a).

### **Issue 7 – Is the Department required by subsection 25(1) of the Act to withhold, in full, 2 pages of the Records sought by the Applicant in the Access Request?**

[67] The Department is relying on subparagraph 25(1) to refuse the Applicant access to portions of the Records. The provision states as follows:

#### ***Relevant Law***

*25 (1) A public body must refuse to disclose personal information about a third party to an applicant if the disclosure would be an unreasonable invasion of the third party's privacy.*

#### ***Analysis***

##### Paragraph 25(1)

[68] Paragraph 25(1) is a mandatory exemption provision; its purpose is to prevent the release of information which may be an unreasonable invasion of a third party's privacy.

[69] Having reviewed Record 14, I am puzzled as to how the record was flagged as responsive to the Complainant's request. However, as it has been, I must now evaluate it on that basis.

[70] The record contains three emails, the third of which contains clearly personal information about a person named within.

[71] Record 10 contains an email chain, four messages long, between one or more employee of the Alberta Treasury Board and employee(s) of the Government of Yukon.

[72] The passage marked as objectionable is found in the second email, which is from an employee of the Alberta Treasury Board to an employee of the Government of Yukon and includes an uncomplimentary evaluation of a co-worker's performance.

[73] Paragraph 25(2)(g) specifies that disclosure of personal information consisting of "personal recommendations or evaluations, character references or personnel evaluations" is presumed to be unreasonable. This presumption is rebuttable after examining *inter alia*, the factors listed in paragraph 25(4).

[74] Paragraph 25(4) states that before the Department refuses to disclose personal information it must consider a number of factors. Most relevant to the record in question is 25(4)(d) which reads "whether the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant."

[75] I find that the information contained in Record 10 constitutes "personnel evaluation" the disclosure of which would negatively and unfairly damage the reputation of a person referred to in the record.

### Conclusion

[76] For these reasons, I find that Records 10 and 14 both contain personal information as defined by the Act, and disclosure of the information would constitute an unreasonable invasion of a third party's privacy.

## VIII FINDINGS

### **Issue 1**

[77] I find that the Department Head is required by subparagraph 15(1)(c) to withhold pages 31 to 35 of the Record. The balance of the relevant pages are not required to be withheld pursuant to paragraph 15(1)(c).

### **Issue 2**

[78] I find that the Department Head is not authorized to withhold any of the Record pursuant to subparagraph 16(1)(c).

**Issue 3**

[79] I find that the Department Head is not authorized to withhold any of the Record pursuant to subparagraph 16(1)(d).

**Issue 4**

[80] I find that the Department Head is not authorized to withhold any of the Record pursuant to subparagraph 17(1)(b).

**Issue 5**

[81] I find that the Department Head is not authorized to withhold any of the Record pursuant to subparagraph 17(1)(c).

**Issue 6**

[82] I find that the Department Head is not authorized to withhold any of the Record pursuant to subparagraph 20(1)(a).

**Issue 7**

[83] I find that the Department Head is authorized to withhold the personal information identified in Record 10 and 14.

## IX RECOMMENDATIONS

**Issue 1**

[84] As subparagraph 15(1)(c) does not apply, I recommend that the Department Head disclose the Records to the Applicant, as requested.

**Issue 2**

[85] As subparagraph 16(1)(c) applies in part, I recommend that the Department Head disclose the Records as identified above.

**Issue 3**

[86] As subparagraph 16(1)(d) does not apply, I recommend that the Department Head disclose the relevant Records to the Applicant, as requested.

**Issue 4**

[87] As subparagraph 17(1)(b) does not apply, I recommend that the Department Head disclose the relevant Records to the Applicant, as requested.

**Issue 5**

[88] As subparagraph 17(1)(d) does not apply, I recommend that the Department Head disclose the relevant Records to the Applicant, as requested.

**Issue 6**

[89] As subparagraph 20(1)(a) does not apply, I recommend that the Department Head disclose the relevant Records to the Applicant, as requested.

**Issue 7**

[90] As subparagraph 25(1) applies in part, I recommend that the Department Head disclose the relevant Records with personal information redacted.

## Department Head's Response to Inquiry Report

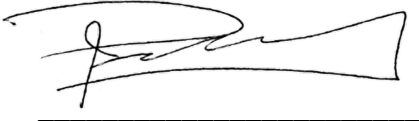
[91] Section 58 of the Act require the Department to decide, within 30 days of receiving this Inquiry Report, whether to follow my recommendations. The Department must give written notice of its decision to me and the parties who receive a copy of this report, noted on the distribution list below.

[92] If the Department does not give notice of its decision within 30 days of receiving this report, then it is deemed to have refused to follow my recommendations.

[93] If the Department does not follow my recommendations, then it must inform the Applicant, in writing, of their right to appeal that decision to the Yukon Supreme Court.

## Applicant's Right of Appeal

[94] Paragraph 59(1)(a) gives the Applicant the right to appeal to the Yukon Supreme Court if the Department Head rejects a recommendation or is considered to have done so.



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Jason Pedlar, B.A., M.A.

Information and Privacy Commissioner

Office of the Information and Privacy Commissioner

### Distribution List:

- Department Head
- Complainant