

## **ATP16-031AR Summary**

After receiving an access to information request made to the Department by the Applicant in this case, the Department refused access to nearly 3000 pages. It cited subsection 18 (b) as grounds for refusing access to 2701 pages. It cited subsections 5 (4) (cabinet briefing), 15 (1) (executive council confidence), 18 (b) (litigation privilege), and 19.1 (2) (workplace harassment) as its authority for refusing access to the remaining pages.

The Information and Privacy Commissioner (IPC) found that subsection 5 (4) did not apply given that the time period for the exception under this subsection had expired. She found that subsection 15 (1) did apply but she did not have enough information to determine if paragraph 15 (2)(c) applied, thereby nullifying the subsection 15 (1) exception. She recommended that the Department reconsider its decision to address this issue. She determined that the Department failed to meet its burden of proof under subsection 19.1 (2) and, consequently, found that subsection 19.1 (2) did not apply to these pages.

She also found that subsection 18 (b) did not apply to any of the records over which the Department claimed this exception (18 (b) Records), but found that subsection 18 (a) applied to five pages of the 18 (b) Records. Having determined that the 18 (b) Records contained personal information that would be an unreasonable invasion of a third party's personal privacy if released to the Applicant, she recommended that these records be released after removing this information.

The Department also refused to provide the Applicant with seven pages, citing subsection 25 (1) and paragraph 25 (1)(g) as its authorities for refusal. The Department provided insufficient evidence to support its assertion that these provisions applied to the pages. Despite this, after reviewing the information, the IPC found that subsection 25 (1) did not apply in the first instance.

The Department refused access to information contained in 32 pages and removed this information from the pages before providing them to the Applicant. It cited section 19.1 and subsection 25 (1) as its authorities. The IPC found that the Department failed to meet its burden of proof under section 19.1. She concurred with the Department that subsection 25 (1) applied to most of the information it separated or obliterated from the records and recommended that the remainder of the information be released to the Applicant.

On the final issue, the IPC determined that the Department improperly identified a page as non-responsive to the Applicant's Access Request after determining that the page contained information relevant to the Access Request. The IPC recommended that the Department disclose the information in the page to the Applicant.