Information and Privacy Commissioner,
Ontario, Canada

Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER PO-4494

Appeal PA22-00391

Ministry of Children, Community and Social Services

March 4, 2024

Summary: The appellant submitted a request under the *Act* to the ministry for the criteria used under the Ontario Autism Program (the OAP) to determine the budget of core services for a child diagnosed with autism spectrum disorder. The ministry located one record, the Determination of Needs Tool (the tool), and denied the appellant access to it. The ministry withheld the record under the discretionary exemption in section 18(1)(d) (economic and other interests) of the *Act*. The appellant appealed the ministry's decision and raised the possible application of the public interest override in section 23. In this order, the adjudicator finds the tool qualifies for exemption under section 18(1)(d) and the public interest override does not apply. The ministry's decision is upheld, and the appeal is dismissed.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31, sections 18(1)(d) and 23.

Orders and Investigation Reports Considered: Orders PO-1799 and PO-2199.

OVERVIEW:

[1] As background, the Ministry of Children, Community and Social Services (the ministry) runs the Ontario Autism Program (the OAP) which offers support to families of children and youth with autism spectrum disorder (ASD). Children and youth under the age of eighteen living in Ontario who have been diagnosed with ASD by a qualified professional are eligible for the program. The OAP is a needs-based program, and the support families receive is dependent on the child or youth's specific needs. According to

the ministry, families complete the determination of needs (DON) process at least once annually to reflect and assess their child's changing support needs. The DON process is a standardized process and includes a family interview component that is conducted by a care coordinator to help determine the profile of support needs for the child or youth with ASD.

[2] The ministry submits the DON process uses a determination of needs tool (the tool) that was designed to capture a child or youth's current support needs and strengths to determine a corresponding funding allocation for core clinical services in the OAP. The ministry states the tool was designed by a working group of research and clinical experts, including autism service providers, self-advocates, individuals with autism and parents, and representatives from Ontario's northern and indigenous communities. The ministry states the tool's design was informed by an extensive review of published information about the types and distribution of needs of children and youth on the autism spectrum and a thorough review and statistical analysis of provincial data sets of needs assessments of autistic children across the province.

[3] The appellant submitted a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) with the ministry for the criteria used under the OAP to determine the budget of core services for a child diagnosed with ASD. The appellant advised he sought access to records from March 1, 2018 to July 28, 2022.

[4] The ministry located one responsive record, the determination of needs tool. The ministry claimed the discretionary exemption in section 18(1)(d) (economic and other interests) of the *Act* to deny the appellant access to the tool.

[5] The appellant appealed the ministry's decision to the Information and Privacy Commissioner of Ontario (the IPC).

[6] During mediation, the appellant raised the possible application of the public interest override at section 23 of the *Act* to the tool.

[7] No further mediation was possible and the appeal was transferred to the adjudication stage of the appeals process, where an adjudicator may conduct an inquiry under the *Act*. The adjudicator originally assigned to the appeal decided to conduct an inquiry and sought and received representations from the ministry and the appellant.

[8] The appeal was then transferred to me to complete the inquiry. I reviewed the parties' representations and invited the ministry to submit additional representations on its exercise of discretion.

[9] In the discussion that follows, I uphold the ministry's decision to deny access to the tool and dismiss the appeal.

RECORDS:

[10] The record at issue is a 26-page Determination of Needs Tool dated March 2022.

ISSUES:

A. Does the discretionary exemption at section 18(1)(d) for economic and other interests of the institution apply to the record?

B. Did the ministry exercise its discretion under section 18(1)(d)? If so, should the IPC uphold the exercise of discretion?

C. Is there a compelling public interest in disclosure of the record that clearly outweighs the purpose of the section 18(1)(d) exemption?

DISCUSSION:

Issue A: Does the discretionary exemption at section 18(1)(d) for economic and other interests of the institution apply to the record?

[11] The ministry claims section 18(1)(d) to withhold the tool in its entirety. Section 18(1)(d) states,

> A head may refuse to disclose a record that contains,
>
> > information where the disclosure could reasonably be expected to be injurious to the financial interests of the Government of Ontario or the ability of the Government of Ontario to manage the economy of Ontario.

[12] Section 18(1)(d) is intended to protect the broader economic interests of Ontarians.[1] An institution resisting disclosure of a record on the basis of section 18(1)(d) cannot simply assert the harms identified are obvious based on the record. The institution must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, the institution should not assume the harms are self-evident and can be proven simply by repeating the description of harms in the *Act*.[2]

[13] The institution must show the risk of harm is real and not just a possibility.[3] However, it does not have to prove that disclosure will in fact result in harm. How much

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[1] Order P-1398, upheld on judicial review in *Ontario* (*Ministry of Finance*) *v. Ontario* (*Information and Privacy Commissioner)*, [1999] 118 O.A.C. 108, [1999] O.J. No. 484 (C.A.), leave to appeal to Supreme Court of Canada refused (January 20, 2000), Doc. 27191 (S.C.C.); see also Order MO-2233.
[2] Orders MO-2363 and PO-2435.
[3] *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 S.C.R. 23.

and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.[4]

The parties' representations

[14] As summarized above, the ministry states the tool is used to assist in capturing a child or youth's current support needs and strengths to determine a corresponding funding allocation for core clinical services in the OAP. The ministry states the tool is comprised of approximately 90 items that are reviewed and completed with families. Care coordinators will meet with families to discuss their child's strengths, support needs and priority goals across ten domains: communication, social interaction, play and leisure, activities of daily living, motor skills, cognitive skills, sensory system, interfering behaviours, mental health, and adaptability and resilience. In addition, the ministry states care coordinators consider factors such as developmental and life stages, as well as co-existing health and environmental factors.

[15] The ministry states the tool is designed to be administered by care coordinators through a semi-structured interview using a conversational approach rather than a questionnaire. As such, care coordinators gather information and assign ratings to the items by asking families questions guided by the tool to capture an accurate report from the family about their child's current strengths, needs and functioning. The ministry states the tool and its contents are not shared with families before their interviews to safeguard the process and ensure responses are truthful and accurately reflect the child's current support needs. The ministry also states the tool is not made public to maintain integrity and fairness in the determination of needs process in the OAP.

[16] With respect to section 18(1)(d), the ministry submits the disclosure of the record could reasonably result in a cost to the Ontario government. The ministry submits the disclosure of the records would reasonably result in harm to the financial interests of Ontario as the disclosure would enable abuses of the program and impose remediating costs for the relevant institutions and Ontario generally.

[17] The ministry states if the tool is released, it will be in the public domain. As such, the ministry submits applicants for the OAP could use the information in the tool to prepare for and conduct their interviews with care coordinators in a manner that would permit misrepresentation of their child's needs to elevate their child's funding allocation beyond their actual needs. The ministry reiterates the OAP is a needs-based program and the tool is a key component of the DON process designed to develop an accurate report of a family and child's current strengths, needs and function. The ministry submits the disclosure of the tool to the public could reasonably be expected to compromise the effectiveness and accuracy of the DON process. The ministry submits the ability to assess needs and accurately allocate funding that aligns with needs would be negatively

[4] *Ontario* (*Community Safety and Correctional Services*) *v. Ontario* (*Information and Privacy Commissioner*), 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc. v. Ontario* (*Information and Privacy Commissioner*), 2016 ONSC 1616.

impacted if applicants had access to the tool ahead of their interviews with care coordinators during the DON process. The ministry submits the release of the tool to the public would reasonably be expected to lead to abuses of the system and significantly compromise the integrity of the DON process and the needs-based structure for the OAP.

[18] The ministry refers to Order PO-1799, in which the adjudicator considered the application of section 18(1)(d) to specific serial and offset security numbers found on transaction records for lottery tickets purchased. In that decision, the adjudicator found the disclosure of that information would undermine the integrity of the provincial lottery system and require costly countermeasures to be developed. The ministry submits the tool is similar to the information found to be exempt under section 18(1)(d) in Order PO-1799 because it is a part of an assessment mechanism established to determine funding allocations for a needs-based program. The ministry submits that, to maintain the integrity of this needs-based assessment and the broader OAP, responses to the questions posed by the care coordinators, guided by the tool, must be truthful to ensure they accurate reflect the child's current support needs. As such, the ministry submits the tool should not be made available to applicants ahead of their interviews with care coordinators.

[19] The ministry submits it would need to develop a new system to accurately assess needs and determine funding or develop costly countermeasures in the DON process if the tool is released, thereby causing further financial loss for Ontario. In addition, the ministry submits this would result in delays for families currently awaiting funding supports as part of the OAP as it develops a new assessment tool or procedure.

[20] The appellant submits the exemption in section 18(1)(d) does not apply to the tool. The appellant submits the financial integrity of the OAP is vested in a "consortium hand-picked by the Ministry." The appellant submits that AccessOAP[5] is a collection of third-party groups or companies contracted to run the OAP on behalf of the ministry. The appellant submits AccessOAP is entrusted with government funding, and by virtue of this trust, there should be due diligence regarding all procedures to protect the economic interests of the ministry. The appellant notes AccessOAP is run by a third-party company and submits the ministry has used section 18(1)(d) to "skirt around duties [the ministry] commissioned to" the third party.

[21] The appellant raises a number of concerns regarding the DON process. Specifically, the appellant claims,

- families must face lengthy wait times before obtaining an ASD diagnosis and assessment of needs under the OAP;
- the ministry does not exercise proper oversight over AccessOAP;

[5] AccessOAP is a service provider that offers families with autism support and services and administers the OAP. See: AccessOAP Website

- care coordinators are not properly equipped to connect parents of autistic children to service providers, despite their impact on the funding provided to families;
- the tool is used by care coordinators in an overly rigid manner that results in funding allocation that are not justified properly to parents of autistic children;
- the tool does not allow parents to provide an accurate or comprehensive depiction of their children or their needs because it is applied rigidly; and
- the tool is not particularly useful and is not clinically credible.

I cannot comment on these issues raised by the appellant. Specifically, I cannot comment on whether the tool is appropriate and will accurately assess the needs of children and families with ASD.

[22] I note the appellant submits representations regarding an access request filed by his wife to AccessOAP for a transcript of the DON call she participated in regarding their child's needs. The appellant raises several concerns regarding the manner in which the company that manages AccessOAP handled his wife's request. I cannot comment on this access request because it is not before me in this appeal.

[23] The only issue before me is whether the DON tool is exempt from disclosure under section 18(1)(d) of the *Act*.

[24] The appellant also takes issue with the ministry's claim that families may abuse the OAP by tailoring their answers to the tool to ensure the most support. The appellant submits it is "reprehensible" for the ministry to "cast aspersions on already stigmatized parents of autistic children."

[25] The appellant submits that upholding the ministry's section 18(1)(d) exemption claim to the DON tool will allow the ministry to maintain status quo to "keep operating the OAP like retail customer-service not clinical support." The appellant also submits upholding the ministry's section 18(1)(d) claim "to preserve the secrecy of the DON tool will lead to an absurd result." The appellant submits the DON process requires parents to consent to the disclosure of witness statements involving intimate details about their autistic children in response to the tool for care coordinator's evaluation. The appellant submits the process allows a stranger (i.e. the care coordinator) to ask parents personal questions about vulnerable minors pursuant to the tool. Given these circumstances, the appellant submits denying access to the tool will lead to an absurd result because it denies parents access to their own witness statements provided to AccessOAP.

Analysis and Findings

[26] Upon review of the parties' representations, I am satisfied the ministry provided sufficient evidence to demonstrate the harm contemplated by section 18(1)(d) of the *Act* could reasonably be expected to result from the disclosure of the tool.

[27] To begin, I confirm the only record before me is the generic DON tool. It appears the appellant seeks access to the tool as well as the tool that was completed by his wife. The tool completed by his wife is not before me. Therefore, I will not consider whether parents of autistic children should have access to the witness statements or other information provided during the DON process nor whether the denial of the tool itself would lead to an absurd result. I note the IPC has previously applied the absurd result principle in relation to the personal privacy exemption in section 49(b), where an individual may seek access to their own witness statement,[6] the requester was present when the information was provided to an institution,[7] or where the information was or is clearly within the requester's knowledge.[8] None of these considerations are relevant in this appeal in relation to the generic tool that is the subject of this appeal.

[28] The purpose of section 18 is to protect certain economic and other interests of institutions. It also recognizes that an institution's own commercially valuable information should be protected to the same extent as that of non-governmental organizations.[9] Section 18(1)(d) is intended to protect the broader economic interests of Ontarians, and those interests can be affected by the reduction of revenue streams the province uses to partly or wholly fund programs.

[29] I acknowledge the appellant's position that the DON process and the tool itself are not without their problems. However, I accept the ministry's evidence that the tool was designed by a group composed of a range of research and clinical experts, including autism services providers, self-advocates, individuals with autism and parents, and representatives from Ontario's northern and indigenous communities. I accept the tool is used in the DON process as part of the OAP to capture an accurate report from a family about their child's current strengths, needs and functioning in order to allocate funding based on a family's needs. I also accept the ministry's position that the questions posed in the tool are not widely known. Finally, I accept the tool is complex and involves a variety of items that are reviewed and completed with families. As the ministry submits, the tool reviews ten areas of skills and needs of a child with ASD.

[30] I also accept the responses to the questions posed in the tool form an important part of a care coordinator's assessment of a child's funding requirements. Given the complexity of the tool and the expertise used to develop the tool, I accept the information contained in the tool has commercial value from not being known because of its use to determine the funding for families in Ontario.

[31] I also accept the ministry's submission that the tool is not widely disseminated by the ministry or the OAP. Furthermore, I accept there is a benefit to the tool not being widely known to ensure the DON process and subsequent needs-based funding to families

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[6] Orders M-444 and M-451.
[7] Orders M-444 and P-1414.
[8] Orders MO-1196, PO-1679 and MO-1755.
[9] *Public Government for Private People: The Report of the Commission on Freedom of Information and Individual Privacy 1980*, vol. 2 (the Williams Commission Report) Toronto: Queen's Printer, 1980.

is conducted in a fair and accurate manner. Given the needs-based nature of the OAP, I accept the ministry's submission that the disclosure of the tool to the public could lead to abuses of the DON process and could compromise the integrity of the system. I do not agree with the appellant's allegation the ministry's claim casts aspersions on stigmatized parents of autistic children. Rather, I accept the ministry's claim the disclosure of the tool could reasonably be expected to result in *some* individuals misrepresenting their needs to obtain more funding from the OAP.

[32] In addition, I accept the ministry's claim that it would need to develop a new system to accurately assess needs and determine funding or develop costly countermeasures in the DON process if the tool is released, thereby causing further financial loss for Ontario. I also accept the ministry's submission that the creation of a new system would result additional costs to the province and Ontarians.

[33] I acknowledge the appellant's frustration with the OAP and the DON process. I also accept the appellant believes there are issues in relation to how the OAP is managed and administered. However, the appellant's arguments do not aid me in my determination of whether the generic tool is subject to the section 18(1)(d) exemption.

[34] In conclusion, I am satisfied the disclosure of the tool could reasonably be expected to be injurious to the financial interests of the Government of Ontario or the ability of the Government of Ontario to manage the economy of Ontario. Therefore, I find the tool is exempt under section 18(1)(d), subject to my consideration of the ministry's exercise of discretion, below.

Issue B: Did the ministry exercise its discretion under section 18(1)(d)? If so, should the IPC uphold the exercise of discretion?

[35] The exemption in section 18(1)(d) is discretionary and permits an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so. The IPC may find the institution erred in exercising its discretion where, for example, it does so in bad faith or for an improper purpose, it takes into account irrelevant considerations, or fails to take into account relevant considerations.

[36] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.[10] It may not, however, substitute its own discretion for that of the institution.[11]

[37] The ministry submits it exercised its discretion properly in applying section 18(1)(d) to the tool. The ministry submits it considered the purposes of the *Act* in exercising its discretion to deny the appellant access to the tool, including information should be available to the public and exemptions to the right of access should be limited

[10] Oder MO-1573.
[11] Section 54(2).

and specific. The ministry submits it also considered the harm that could reasonably be expected to result from the disclosure of the records. The ministry states it has made a significant amount of information about the tool and the DON process publicly available to achieve the purposes of the *Act* to ensure transparency. The ministry submits it balanced the need to ensure transparency against the purpose of the exemption in section 18(1)(d) to protect the broader economic interests of Ontario.

[38] In addition, the ministry states its considered whether disclosure of the tool would increase public confidence in its operations. However, the ministry submits the disclosure of the tool would compromise the proper management and the operation of the process used to determine and allocate funding under the OAP. The ministry reiterates the disclosure of the tool to the public would compromise the effectiveness and accuracy of the DON process and could lead to abuses of the system and the OAP.

[39] The ministry submits the tool is significant and sensitive to the ministry and its disclosure would require Ontario to develop a new system to accurately assess needs and determine funding or to develop costly countermeasures in the DON process for the OAP, resulting further financial loss for the province.

[40] Upon consideration of these factors, the ministry submits it decided to exercise its discretion to apply section 18(1)(d) and not grant the appellant access to the tool.

[41] The appellant alleges the ministry exercised its discretion to deny him access to the tool in bad faith. The appellant also submits the ministry acted in bad faith when it "cast aspersions on already stigmatized parents of autistic children" by submitting that individuals may abuse the DON process if the tool is made public. In the circumstances of this appeal, I am satisfied the ministry properly exercised its discretion under section 18(1)(d) in deciding not to disclose the tool. To be clear, I uphold the ministry's decision to withhold the generic tool, not a record that contains the appellant's child's personal information. I am satisfied the ministry considered relevant factors in exercising its discretion and did not take into account irrelevant considerations. I accept the ministry considered the nature of the information at issue, the purpose of the exemption claimed and the consequences of the disclosure of the tool when applying section 18(1)(d). While the appellant claimed the ministry is acting in bad faith, I find no evidence to demonstrate it is doing so in denying the appellant access to the tool.

[42] In conclusion, upon review of the record and the parties' representations, I find the ministry exercised its discretion to withhold the tool under section 18(1)(d) appropriately. I uphold its exercise of discretion.

Issue C: Is there a compelling public interest in disclosure of the record that clearly outweighs the purpose of the section 18(1)(d) exemption?

[43] The appellant takes the position there is a public interest in the disclosure of the tool and that the public interest override at section 23 applies to it.

[44] Section 23 of the *Act* provides for the disclosure of records that would otherwise be exempt under another section of the *Act*. It states,

> An exemption from disclosure of a record under sections 13, 15, 15.1, 17, 18, 20, 21 and 21.1 does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

[45] For section 23 to apply, two requirements must be met:

- There must be a compelling public interest in disclosure of the records; and
- This interest must clearly outweigh the purpose of the exemption.

[46] The *Act* does not state who bears the onus to show that section 23 applies. The IPC will review the records with a view to determining whether there could be a compelling public interest in disclosure that clearly outweighs the purpose of the exemption.[12]

Compelling public interest

[47] In considering whether there is a *public interest* in disclosure of a record, the first question to ask is whether there is a relationship between the record and the *Act*'s central purpose of shedding light on the operations of government.[13] In previous orders, the IPC has stated that to find a compelling public interest in disclosure, the information in the record must serve the purpose of informing or enlightening the citizenry about the activities of their government or is agencies, adding in some way to the information the public has to make effective use of the means of expressing public opinion or to make political choices.[14]

[48] A *public interest* does not exist where the interests being advanced are essentially private in nature.[15] However, if a private interest raises issues of a more general application, the IPC may find there is a public interest in disclosure.[16]

[49] The IPC has defined the word *compelling* as "rousing strong interest or attention."[17]

[50] The IPC must also consider any public interest in **not** disclosing the record.[18] A public interest in the non-disclosure of the record may bring the public interest in

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[12] Order P-244.
[13] Orders P-984 and PO-2607.
[14] Orders P-984 and PO-2556.
[15] Orders P-12, P-347 and P-1439.
[16] Order MO-1564.
[17] Order P-984.
[18] *Ontario Hydro v. Mitchinson*, [1996] OJ No. 4636 (Div. Ct.).

disclosure below the threshold of *compelling.*[19]

Parties' representations

[51] The ministry submits there is not a compelling public interest in the disclosure of the records that clearly outweighs the purposes of the exemption in section 18(1)(d). In fact, the ministry submits there is a public interest in the *non-disclosure* of the tool. The ministry refers to Order PO-2199, in which the IPC determined there was a strong public interest in the non-disclosure of records relating to Ontario Lottery and Gaming Corporation research and discussion documents, including studies and reports regarding the development, establishment and expected success of the "Big Ticket Lottery." The ministry submits the IPC found that there was a reasonable expectation of the harms contemplated in section 18(1) if the OLGC records were to be disclosed.

[52] The ministry submits the tool should be withheld to protect the broader economic interests of Ontarians because its disclosure could allow misrepresentations of a child's needs and result in the improper funding through the DON process. The ministry submits this would reasonably create a significant risk to the program's ability to remain within the costing and budgeting constrains that have been created to ensure the program addresses the needs of as many children with ASD as possible, in as timely a manner as possible. As such, the ministry submits there is a public interest in the non-disclosure of the tool.

[53] The ministry also submits the disclosure of the tool would require Ontario to develop a new system to accurately assess needs and determine funding or to develop costly countermeasures in the DON process for the OAP, resulting further financial loss for the province.

[54] Furthermore, the ministry submits there is a significant amount of information about the tool and the DON process that is publicly available. The ministry notes the IPC has found that where a significant amount of information is already available, the public interest override may not apply or will not be found to be as compelling.[20] The ministry states the information about core clinical services, including a description of the determination of needs process and available OAP funding allocations are available on its website.[21] The ministry states its website provides general information about the DON process, including the role of care coordinators. In addition, the ministry submits its websites identify the ten key domains children will be assessed by and the factors considered by care coordinators during the DON process. The ministry takes the position that ample information about the OAP and the DON process are available to the public and it is sufficient for the purpose of addressing public interest considerations.

[55] The appellant submits there is a compelling public interest in the disclosure of the

[19] Orders PO-2072-F, PO-2098-R and PO-3197.
[20] Orders P-532 and PO-2626.
[21] The ministry refers to OAP Core Clinical Services and Supports Guidelines on its website.

tool that clearly outweighs the purposes of the section 18(1)(d) exemption. The appellant submits there has long been a public interest in the "institutional treatment of autistic people." The appellant argues groups such as the Ontario Autism Coalition was created in 2005 to focus public interest in the treatment of individuals with ASD and their families. The appellant submits the waitlist for the OAP and the DON process has grown from 23,000 in 2019 to 53,000 in 2022. The appellant is also concerned about the management of the OAP and the ministry's lack of transparency and accountability regarding the OAP. The appellant also identified various struggles parents have had obtaining ASD funding and support for their children. The appellant submits there is a public interest in the "economic worth of Ontario's autistic population" and this outweighs the ministry's concerns with the disclosure of the tool.

Analysis and finding

[56] As noted above, to order the disclosure of the information I previously found exempt under section 18(1)(d), I must be persuaded there is a compelling public interest in the disclosure of the tool and, if so, that the compelling public interest clearly outweighs the purpose of the exemption. In my view, section 23 does not apply to the tool.

[57] The appellant argues the tool should be disclosed to help understand the "economic worth of Ontario's autistic population." The appellant also argues there is a public interest in the "institutional treatment of autistic people." I agree with the appellant that there is a public interest in the treatment of individuals with ASD and their families by government institutions. I also agree there is a public interest in the funding and support that is provided to these individuals and their families by government institutions. However, based on my review of the record, I find the disclosure of the tool would not respond to this public interest. Specifically, I find the information in the tool does not, on its own, speak to the manner in which government institutions treat individuals with ASD and their families nor will it reveal how much funding is allocated to these families.

[58] Upon review of the parties' representations, I find there is not a compelling public interest in the disclosure of the tool that clearly outweighs the purpose of the exemption in section 18(1)(d). I have reviewed the appellant's concerns with the OAP; however, I find that disclosure of the tool would not address the concerns the appellant has raised regarding the funding of services for individuals with ASD.

[59] Furthermore, I am persuaded by the ministry's submissions there is a public interest in the non-disclosure of the tool. Specifically, I am persuaded there is a public interest in ensuring the DON process maintains its integrity and that parents who are interviewed provide full, frank, and honest responses with regard to their children's needs and that the tool forms an integral part of this process. In my view, there is a public interest in non-disclosure of the tool to ensure the assessments conducted by care coordinators accurately capture a child's current strengths, needs and functions and therefore allow for the proper allocation of funding to families in need of support from the OAP.

[60] In addition, the ministry has advised that if the tool is disclosed, it will be required to create a new system to assess the needs of families with a child or children with ASD or develop countermeasures in the DON process, both of which will cost Ontario more money and may cause delays to families obtaining assessments and therefore funding. Given these circumstances, I am persuaded there is a public interest in non-disclosure of the tool.

[61] Finally, I acknowledge the ministry has provided a significant amount of information regarding the DON process, the OAP, and the tool on its website. While I appreciate the appellant does not find this satisfactory, I find the ministry has offered sufficient information on its website to satisfy the public interest while also maintaining the integrity of the DON system.

[62] In sum, I find there is no compelling public interest in the disclosure of the record at issue that outweighs the purpose of the section 18(1)(d) exemption. Accordingly, the public interest override in section 23 does not apply.

ORDER:

I uphold the ministry's decision and dismiss the appeal.

Original signed by: March 4, 2024

Justine Wai
Adjudicator