

Information and Privacy Commissioner,  
Ontario, Canada



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

---

## INTERIM ORDER PO-4652-I

Appeal PA24-00203

Cabinet Office

May 5, 2025

**Summary:** The appellant submitted a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for the calendar of the former Executive Director of Stakeholder Relations in the Premier's Office for the period from June 1 to December 31, 2022. Cabinet Office located responsive records in the individual's government Outlook calendar and granted the appellant partial access to them.

The appellant appealed Cabinet Office's decision, claiming that it did not conduct a reasonable search because it ought to have also searched the individual's personal calendar. In this interim order, the adjudicator finds the individual's personal calendar as a whole is not within the scope of the appellant's request and upholds Cabinet Office's decision not to search it.

However, the adjudicator finds Cabinet Office's search of the individual's government Outlook calendar was not reasonable because it did not provide sufficient evidence to support its claim that the entries marked "Private" in the individual's government Outlook calendar were, in fact, private or personal in nature. The adjudicator orders Cabinet Office to obtain a sworn affidavit from the individual confirming the nature of the calendar entries marked "Private" in their government Outlook calendar. If any of the specific entries marked "Private" are found to relate to government business, the adjudicator orders Cabinet Office to require the affected party to search their personal calendar for any corresponding entries and provide any such records to Cabinet Office so it can render a revised access decision.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, section 24(1).

**Orders Considered:** Interim Orders PO-4639-I and PO-4640-I.

## OVERVIEW:

[1] The appellant submitted a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to Cabinet Office for “the calendar of [named individual] from the period of June 1, 2022 to December 31, 2022. Please include any calendars for positions the [individual] held within those periods.”

[2] While the appellant’s request does not identify the Greenbelt matter, it appears the appellant seeks access to records that relate to the Ontario government’s decision to remove and develop lands from the Greenbelt. The government announced this plan on November 4, 2022 and subsequently reversed it. The decision-making process for the selection of land for removal from the Greenbelt has been the subject of two reports by independent officers of the Legislative Assembly of Ontario: a report of the Auditor General of Ontario<sup>1</sup> and a report of the Office of the Integrity Commissioner of Ontario.<sup>2</sup>

[3] Cabinet Office conducted a search and located responsive records, which are printed calendar entries from the named individual’s government Outlook account. Each page of the record is a printout of the scheduled appointments for each day during the period specified in the request. Cabinet Office issued an access decision granting the appellant partial access to the records, claiming portions are exempt under several exemptions in the *Act*, including the personal privacy exemption in section 21(1).

[4] The appellant appealed Cabinet Office’s decision to the Information and Privacy Commissioner of Ontario (the IPC).

[5] During mediation, Cabinet Office issued a revised access decision in which it removed some of its section 21(1) claims for certain entries. The appellant does not pursue access to the remaining information withheld from disclosure under section 21(1) and this issue was removed from the scope of the appeal.

[6] However, the appellant claimed Cabinet Office did not conduct a reasonable search for responsive records and takes the position that Cabinet Office should have searched the calendars associated with any personal accounts of the individual named in her request (the affected party).

[7] Cabinet Office provided the appellant with an explanation of its search and claims the “personal repository” of the affected party is outside the scope of this request.

[8] The appellant maintained her claim that additional responsive records ought to exist and raised concerns that Cabinet Office did not adhere to record creation and

---

<sup>1</sup> *Special Report on Changes to the Greenbelt*, published in August 2023 following an audit pursuant to the *Auditor General Act*, R.S.O. 1990, c. A.35. (the Auditor General’s Report)

<sup>2</sup> *Report of the Integrity Commissioner re: Ministry of Municipal Affairs and Housing*, published in August 2023 following an investigation pursuant to the *Members’ Integrity Act*, 1994, S.O. 1994, c. 38. (the Integrity Commissioner’s Report)

retention practices.

[9] Mediation did not resolve the appeal and it was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry. During my inquiry, I sought and received representations from Cabinet Office and the appellant.<sup>3</sup>

[10] In addition, I notified the affected party of the request and appeal. I invited them to submit representations on the issues. The affected party did not respond to my notice.

[11] In the decision that follows, I find the affected party's personal calendar, as a whole, is outside the scope of the appellant's request and that Cabinet Office was correct to exclude it from the original search. I find Cabinet Office did not conduct a reasonable search and order Cabinet Office to obtain a sworn affidavit from the affected party confirming that each of the calendar entries marked "Private" is, in fact, personal in nature and not related to government business. If any of the specific entries marked "Private" are found to relate to government business, I order Cabinet Office to require the affected party to search their personal calendar for any corresponding entries and provide any such records to Cabinet Office so it can issue a revised access decision.

## **ISSUES:**

A. What is the scope of the request?

B. Did Cabinet Office conduct a reasonable search for records?

## **DISCUSSION:**

### **Issue A: What is the scope of the request?**

[12] The appellant takes the position that her request includes the calendar entries of the affected party in their professional capacity with the Ontario government and the calendar entries from their personal calendar.

[13] Cabinet Office claims it should not be required to search the affected party's personal calendar because it is outside the scope of the request.

[14] The appellant's original request reads as follows:

The calendar of [the affected party] from the period of June 1, 2022 to December 31, 2022. Please include any calendar for positions the [affected party] held within those periods.

[15] To support her position, the appellant provided a copy of a Microsoft Teams

---

<sup>3</sup> The parties' representations were exchanged in accordance with the IPC's *Code of Procedure*.

meeting invitation the former Chief of Staff at the Ministry of Municipal Affairs and Housing (the ministry) forwarded from his personal account to his ministry email account. The Microsoft Teams meeting invitation was sent to the personal email addresses of both the affected party and the ministry's former Chief of Staff, by another former Premier's Office employee through their personal account. The appellant notes the subject of the meeting relates to the Greenbelt project. The appellant submits the date and time that corresponds to the Teams meeting invitation in the affected party's government calendar entry is marked "Private." The appellant surmises that the affected party must have placed the details of this meeting in their personal calendar "in an effort to conceal the purpose of the meeting or perhaps to frustrate a [freedom of information] search."

[16] Cabinet Office submits it reviewed the affected party's government calendar and found 34 instances of entries marked "Private." Cabinet Office notes these entries were initially redacted under the personal privacy exemption in section 21(1), but to provide the appellant with more information, it removed the section 21(1) redactions, revealing that the underlying calendar entries were marked "Private".

[17] Cabinet Office submits the appellant has not provided sufficient evidence to suggest that all 34 entries relate to government work, and it would therefore be inappropriate to require the affected party to conduct a search of their personal calendar. Instead, Cabinet Office submits that it contacted the affected party on November 13, 2024 to request further information about the nature of the "Private" entries in their government calendar. Cabinet Office submits the affected party reviewed their government calendar and confirmed the "Private" entries were related to personal matters.

[18] The appellant submits it is "clear" from the text of her request that her "goal is to gather information on meetings/events [the affected party] attended and/or was privy to in the time period." The appellant submits that between June 1 and December 31, 2022, the government made significant decisions relating to the Greenbelt project. She submits that as such, a proper interpretation of the scope of her request would include calendar items "on any calendars during that time period that are relevant to government business."

[19] The appellant also submits there is "documented evidence" of the use of personal emails to discuss Greenbelt matters within the Premier's Office. The appellant refers to a media article<sup>4</sup> which demonstrates the Premier's Chief of staff exchanged emails with the former ministry Chief of Staff through their personal email accounts. I acknowledge this evidence from the appellant and remind Cabinet Office and the Premier's Office that government work should only be conducted through government devices and government accounts to ensure accountability and transparency in accordance with the

---

<sup>4</sup> The appellant refers to this article: <https://globalnews.ca/news/10241644/greenbelt-patrick-sackville-email/>.

*Act*.

[20] The fact that the Premier's Chief of Staff and the former ministry Chief of Staff used their personal email account to conduct government work is not sufficient evidence to conclude the affected party included government related meetings in their personal calendar between June 1 and December 31, 2022. However, the Teams meeting invitation sent to the affected party's personal email account that the appellant provided raises serious concerns about whether the corresponding calendar entry marked "Private" in the affected party's government calendar relates to the affected party in their personal capacity or in their capacity as a government official. I acknowledge these concerns and accept they raise the question of whether this and some of the other entries in the affected party's personal calendar may contain government-related information.

[21] Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. Section 24 states, in part:

(1) A person seeking access to a record shall,

(a) make a request in writing to the institution that the person believes has custody or control of the record;

(b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort to identify the record;

...

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[22] Previous orders have found that institutions should adopt a liberal interpretation of the request to best serve the purpose and spirit of the *Act*. Generally, ambiguity in a request should be resolved in the requester's favour.<sup>5</sup>

[23] To be considered responsive, the records must *reasonably relate* to the request.<sup>6</sup>

[24] In my view, the appellant's request was clear and unambiguous. The appellant sought access to the affected party's calendar for June 1 to December 31, 2022, including any calendar for "positions" he held during this period. Given this reference to the affected party's "positions", I find it clear, even on a broad and liberal interpretation, the appellant sought access to the affected party's work-related calendars.

---

<sup>5</sup> Orders P-134 and P-880.

<sup>6</sup> Orders P-880 and PO-2661.

[25] Moreover, I note the appellant only attempted to broaden her request to include the affected party's personal calendar during mediation when Cabinet Office removed the section 21(1) redactions, revealing that the underlying entries were marked "Private" by the affected party. Upon review, I find the appellant did not originally intend for the scope of her request to include the entirety of the affected party's personal calendar for the relevant period.

[26] Section 10 of the *Act* provides a right of access to a record or a part of a record in "the custody or under the control" of an institution. The IPC has generally found that personal records of government officials are outside of an institution's custody or control. As such, it is not usual for the IPC to require government staff to search their personal accounts or records, unless there is reason to believe there may be records relating to government business, in which case such records would be brought within government control and become subject of the search.<sup>7</sup> Given the evidence before me, and for the reasons I explain below, I find there is reason to believe at least some government-related information may be found in the affected party's personal calendar and such information, if it exists, would be brought within the scope of the appellant's request.

[27] In conclusion, I find that any personal calendar associated with the affected party's personal email account is, as a whole, outside the scope of this request, and that the appellant's request is limited to any government account used by the affected party for the period of June 1 to December 31, 2022. However, in consideration of the evidence provided to me by the appellant, and for the reasons that follow, I find any government-related information that may reasonably be found in the affected party's personal calendar corresponding to the specific entries marked "Private" would, if it exists, be brought within the scope of the appellant's request.

### **Issue B: Did Cabinet Office conduct a reasonable search for records?**

[28] If a requester claims additional records exist beyond those found by the institution, the issue is whether the institution conducted a reasonable search for records as required by section 24 of the *Act*.<sup>8</sup> If the IPC is satisfied the search carried out was reasonable in the circumstances, it will uphold the institution's decision. Otherwise, it may order the institution to conduct another search for records.

[29] Although a requester will rarely be able to indicate precisely which records the institution has not identified, they must still provide a reasonable basis for concluding that such records exist.<sup>9</sup>

[30] The *Act* does not require the institution to prove with certainty that further records do not exist. However, the institution must provide sufficient evidence to show it made a

---

<sup>7</sup> Order PO-4638.

<sup>8</sup> Orders P-85, P-221 and PO-1954-I.

<sup>9</sup> Order MO-2246.

reasonable effort to identify and locate responsive records.<sup>10</sup> Responsive records are records that are “reasonably related” to the request.<sup>11</sup>

[31] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.<sup>12</sup> The IPC will order a further search if the institution does not provide enough evidence to show it made a reasonable effort to identify and locate all of the responsive records within its custody or control.<sup>13</sup>

### ***Parties’ representations***

[32] Cabinet Office submits it conducted a reasonable search for responsive records. Cabinet Office states its Freedom of Information (FOI) unit requested the Issues Manager and Special Advisor at the Premier’s office to pull the affected party’s calendar for the period from June 1, 2022 to December 31, 2022. Cabinet Office submits the affected party did not conduct the search because they were no longer employed by the Ontario Public Service when Cabinet Office received the request. Cabinet Office provided an affidavit sworn by the Senior Manager of its FOI and Issues Unit summarizing the search conducted.

[33] Cabinet Office submits that during the period identified in the request, the affected party was the Executive Director of Stakeholder Relations. As such, Cabinet Office pulled the affected party’s Microsoft Outlook calendar in relation to that role. Cabinet Office submits it disclosed one record consisting of 214 pages to the appellant with certain portions redacted under section 21(1).

[34] Cabinet Office submits this search was complete and reasonable in response to the appellant’s request. Cabinet Office submits the search was conducted by staff knowledgeable in the affected party’s calendar and it adopted a liberal interpretation of the request. Cabinet Office also submits it contacted the affected party and they confirmed the entries marked “Private” in their calendar were personal in nature.

[35] The appellant claims Cabinet Office did not conduct a reasonable search for responsive records because it did not search the affected party’s personal calendar. The appellant submits it is “beyond belief” that the calendar entries marked as “Private” did not relate to the Greenbelt project or government business. The appellant is concerned that these “Private” items were marked as such to frustrate searches under the *Act*. As evidence, she refers to the copy of the Microsoft Teams meeting invitation that was forwarded to the affected party’s personal email account from the personal account of the ministry’s former Chief of Staff that corresponds to the same date and time as one of

---

<sup>10</sup> Orders P-624 and PO-2559.

<sup>11</sup> Order PO-2554.

<sup>12</sup> Orders M-909, PO-2469 and PO-2592.

<sup>13</sup> Order MO-2185.

the entries marked "Private" in the affected party's government calendar.

[36] The appellant also raises issues relating to the creation, retention, and destruction of records. The appellant questions whether Cabinet Office adhered to the requirements of the *Archives and Recordkeeping Act, 2006*<sup>14</sup> in preserving records relating to the Greenbelt matter.

[37] In response to the appellant's claims regarding record retention or deletion, I asked Cabinet Office to address the following questions:

1. What are the policies/procedures regarding the creation of records relating to government or ministry-related work on personal devices and/or accounts?
2. Did Cabinet Office take any additional measure to secure the preservation and recovery of responsive records within its custody or control in accordance with its duties set out in section 10.1 of the *Act* and the *Archives and Recordkeeping Act, 2006*?

[38] Cabinet Office submits it follows record retention schedules developed in accordance with the requirements in the *Archives and Recordkeeping Act, 2006*. Cabinet Office also submits that it provided political staff with additional training and guidance on recordkeeping throughout 2024 in response to the recommendations from the Auditor General's Report. As part of that training, Cabinet Office specifically reiterated that personal accounts and personal devices should not be used for government business and public records must be retained in accordance with the approved record schedule for the Premier's Office and must be accessible.

[39] Further, Cabinet Office required departing staff to sign an attestation to meet the requirements of the *Archives and Recordkeeping Act, 2006* and the Premier's Office Records Schedule. Cabinet Office also notes that it is "longstanding practice" for departing staff to sign an attestation that these requirements are met and that staff are required to attest that they have saved all business records "into the appropriate shared repository." The attestation further notes that "public records must not remain on personal file shares, mobile devices, or portable media drives." Cabinet Office submits the affected party signed this attestation prior to their departure from the Premier's Office, which took place at the end of the period identified in the request.

[40] In addition, Cabinet Office submits that, in response to the Auditor General's Greenbelt recommendations, all minister's and Premier's Office staff are now required to sign an annual recordkeeping attestation. As of March 2024, each staff member must annually attest that they have saved all public records into an appropriate government repository, that they will conduct government business on government accounts and that any inadvertent communications relating to government business on any other accounts will be forwarded to a government account. I note the affected party would not have

---

<sup>14</sup> S.O. 2006, c. 34, Sched. A.



participated in this annual attestation process because his employment with the Premier's Office ended prior to the implementation of this process.

[41] With regard to the second question above, Cabinet Office submits it took appropriate measures to secure and recover the responsive records. Cabinet Office submits the affected party's email account was secured and preserved by its information technology staff when they left the employment of the Premier's Office on December 20, 2022. Cabinet Office submits the Infrastructure Technology Services department retrieved a copy of the affected party's calendar entries while maintaining the original account.

[42] Cabinet Office submits it conducted a reasonable search and took extra steps to request the affected party to confirm that the calendar entries marked "Private" were personal in nature.

### ***Analysis and findings***

[43] I have reviewed the parties' representations and find Cabinet Office did not conduct a reasonable search in so far as it has not provided sufficient evidence to confirm the entries marked "Private" in the affected party's government outlook calendar were in fact private.

[44] I find Cabinet Office provided credible evidence to demonstrate an experienced employee knowledgeable in the subject matter of the request (i.e. the Outlook calendars of Premier's Office staff) expended reasonable efforts to locate the calendar entries the appellant seeks access to. I have reviewed the records located by Cabinet Office and they appear complete in that they comprise all the Outlook calendar entries for the affected party for the entirety of the requested period. There is no basis to believe that any entries were omitted or deleted.

[45] I also accept Cabinet Office's evidence that the affected party signed an attestation prior to their departure from the Premier's Office confirming that they met the requirements of the *Archives and Recordkeeping Act, 2006* and the Premier's Office's retention schedule.

[46] However, I have reviewed the appellant's evidence of an entry marked "Private" in the affected party's work calendar on July 14, 2022, that corresponds to the same date and time as a Teams meeting invitation relating to the Greenbelt matter that was sent to their personal email. Based on this fact, as well as the general concerns raised in the investigations of the Auditor General and the Integrity Commissioner, I find there is reason to believe at least one entry marked "Private" in the affected party's government Outlook calendar involved government-related business.

[47] The appellant submits the goal of her request "is to gather information on meetings/events [the affected party] attended and/or was privy to in the time period." While I cannot confirm whether the affected party attended the July meeting they were

invited to that related to the Greenbelt matter, the circumstances before me suggest it was at least a possibility.

[48] Given these circumstances, I find the assurance Cabinet Office received from the affected party is not sufficient for me to determine whether such calendar entries were in fact related to private matters, and not government related matters. Cabinet Office advises only as follows:

Premier's Office reached out to [the affected party] on November 13, 2024 to share information about the private meetings and asked [them] to identify the private meetings as personal or business in nature. In this regard, [the affected party] confirmed that the meetings marked as private were personal. As such, it would be inappropriate to require a search on [the affected party's] personal calendar based on this information.

[49] Cabinet Office did not provide any further evidence of this communication with the affected party regarding their "Private" entries.

[50] I note page 67 of the Auditor General's report, which found,

... political staff received emails from lobbyists and other external parties on their personal email accounts that they then forwarded to their government email. Conversely, there were occasions when government emails were forwarded by political staff from their government accounts to their personal accounts.

[51] It is clear from the Microsoft Teams meeting invitation the appellant provided me, that the affected party's personal email account was, at least in this instance, used as a conduit through which correspondence relating to the Greenbelt matter was funneled, consistent with what the Auditor General had found. Given these circumstances, I find there is sufficient reason for me to require Cabinet Office to provide more formal confirmation of the nature of the 34 "Private" entries in the affected party's government calendar.

[52] I note that recent decisions of this office have found that government records that have been sent and saved to personal email accounts or devices may be in the custody or under the control of an institution. Specifically, I refer to Interim Orders PO-4640-I and PO-4639-I, in which the adjudicator found that to the extent they exist, any responsive records sent to or from the personal email of a former ministry employee that relate to the Greenbelt amendment would be considered to be in the ministry's custody or control.<sup>15</sup> Further, the adjudicator found there was a reasonable expectation for the former ministry employee to cooperate and produce to the ministry records created during the period of public service and relate to government business.<sup>16</sup> I agree with the

---

<sup>15</sup> Interim Order PO-4640-I at para 68.

<sup>16</sup> Interim Order PO-4640-I at para 80.

findings in Interim Orders PO-4639-I and PO-4640-I.

[53] As discussed above, the appellant requested access to calendar entries relating to the positions held by the affected party. I note the "Private" entries contain no additional information or context in the Outlook calendar. For example, there are no other details to suggest where or if the affected party attended a specific meeting or appointment. Following Interim Orders PO-4639-I and PO-4640-I, I find that, if the "Private" entries relate to the affected party in his official capacity, any details regarding these entries, to the extent they may exist in the affected party's personal email account, would be responsive to the appellant's request. If this is the case, these details would be related to the affected party's government work and would therefore be within the custody or control of Cabinet Office.

[54] Given these circumstances, I will order Cabinet Office to obtain a sworn affidavit from the affected party confirming the nature of each calendar entry marked "Private." To be clear, a blanket confirmation regarding all 34 entries is not sufficient. I will order Cabinet Office to obtain a clear confirmation from the affected party regarding each individual entry.

[55] I note the appellant also referred to IPC Interim Order PO-4449-I. In this order, the adjudicator found there was a reasonable basis for believing that records responsive to the request in that appeal may have been irretrievably lost or destroyed. By referencing this order, the appellant appears to suggest that this may also be the case in this appeal. I disagree.

[56] I acknowledge that the Auditor General's Report observed that emails were "regularly being deleted by political staff."<sup>17</sup> In light of the serious concerns that this observation raised, Order PO-4449-I pre-emptively ordered the ministry to preserve all records relating to the Greenbelt which, this office has been assured the ministry has done. In the absence of any evidence to support a conclusion that the affected party may have deleted their calendar entries, I find the appellant has not established that these concerns arise in this appeal.

[57] In addition, the appellant refers to a "records retention deficiency" in that she submits Ontario government staff used code terms such as "special project" or "G\*" to conceal records or to hinder FOI requests. It is clear the use of code terms such as "G\*" would frustrate an institution's ability to search for records that may relate to the Greenbelt project. However, I have reviewed the calendar entries Cabinet Office located in response to the appellant's request in this case and have found that none contain the special codes the appellant refers to in her submissions. Therefore, I will not consider this point further.

---

<sup>17</sup> Auditor General's Report, page 67.

## ***Conclusion***

[58] I have considered the appellant's evidence suggesting that at least one entry in the affected party's government Outlook calendar marked "Private" involved a Greenbelt-related Teams meeting invitation sent to their personal email account. On this basis, as well as the general findings of the Auditor General and the Integrity Commissioner in respect of the Greenbelt matter, I find that Cabinet Office has not provided sufficient evidence to support its position that all 34 entries marked "Private" were meetings of a private nature, and not meetings related to the Greenbelt.

[59] Consequently, I find Cabinet Office did not conduct a reasonable search for the affected party's government calendar for the period June 1 to December 31, 2022 and I make the following orders.

## **ORDER:**

1. I order Cabinet Office to obtain a sworn affidavit from the affected party confirming the nature of each of the 34 entries marked "Private" in their Outlook calendar. I order Cabinet Office to provide the IPC with a copy of this affidavit by **June 4, 2025**.
2. If any of the specific entries marked "Private" are found to relate to government business, I order Cabinet Office to require the affected party to search their personal calendar for any corresponding entries and provide any records relating to those entries to Cabinet Office.
3. In the event that Cabinet Office fails to obtain a sworn affidavit from the affected party by **June 4, 2025**, I order the ministry to provide affidavit evidence of the steps it took to obtain an affidavit from the affected party by **June 16, 2025**.
4. If the affected party provides responsive records from their personal calendar to Cabinet Office, I order Cabinet Office to issue a revised access decision to the appellant, in accordance with the requirements of the *Act*, treating the date of this interim order as the date of the request.
5. I remain seized of this appeal to deal with any outstanding issues arising from provisions 1 to 4 of this interim order.

Original Signed by: \_\_\_\_\_  
Justine Wai  
Adjudicator

May 5, 2025 \_\_\_\_\_