

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4674

Appeal MA22-00456

Rideau Valley Conservation Authority

June 30, 2025

Summary: This order addresses a request made under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the Rideau Valley Conservation Authority (the RVCA) for correspondence from a named individual to the RVCA about a study update. The RVCA located emails responsive to the request and withheld them in full under the mandatory exemption for personal privacy at section 14(1) of the *Act*. In this order, the adjudicator upholds the RVCA's decision to withhold the records under section 14(1) and she dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of "personal information"), 14(1), 14(1)(f), and 14(2)(a).

Orders Considered: Order MO-4307.

OVERVIEW:

[1] The Rideau Valley Conservation Authority (the RVCA) received the following request for information under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*):

...all records of correspondence, including all letters, e-mails, memos and notes, sent from [a named individual] (from either his personal email account or his City of Ottawa email account) to the Rideau Valley Conservation Authority (the "RVCA") concerning the Jock River

Subwatershed Study Update. The date range for this request is from November 2020 to the date of this letter.

[2] The RVCA notified the named individual (the sender) of the request. The sender told the RVCA that the emails at issue contain his personal information and should not be disclosed pursuant to the mandatory personal privacy exemption at section 14(1) of the *Act*. The RVCA then issued a decision denying access to the responsive records pursuant to section 14(1) (personal privacy) of the *Act*.

[3] The requester, now the appellant, appealed the RVCA's decision. A mediator contacted the appellant and the RVCA to discuss the appeal. The appellant confirmed they are pursuing access to all the withheld information. The RVCA confirmed its decision to withhold all the responsive records, and the appellant told the mediator it wanted to pursue the appeal at adjudication.

[4] Further mediation was not possible, and the matter was moved to the adjudication stage of the appeals process, where an adjudicator may conduct a written inquiry pursuant to the *Act*. I obtained representations from the RVCA and the appellant. After reviewing the parties' representations, I sought clarification from the appellant about the specific information they seek. The appellant confirmed that their request is for correspondence from the sender to the RVCA only and clarified that they do not seek access to a study the sender attached to that correspondence. The appellant clarified that they seek only correspondence from the sender that relates to information he learned of and/or had access to by way of his employment at the City of Ottawa (the city).

[5] In this order, I uphold the RVCA's decision that the records contain the sender's personal information and are exempt from disclosure pursuant to the mandatory exemption for personal privacy at section 14(1) of the *Act*.

RECORDS:

[6] The 10 records at issue are the emails described in the chart below (the emails). There is significant duplication as many of the emails forward the sender's previous emails. I consider the emails only the first time they appear. The chart below sets out the information at issue, as well as the information that is not at issue:

Record Number	Pages at issue	Pages not at issue and/or duplicates	Description of information not at issue
1	1 to 4	Pages 5 to 568	A study with various attachments.
2	1 to 2	Pages 3 to 6	Copy of email in record 1.

3	1	Second half of page 1 to page 6	Copy of emails in records 1 and 2.
4	1	Pages 2 to 28	Copy of emails in records 1 to 3 and a technical study with attachments.
5	1	Pages 2 to 6	Copy of emails in records 1 to 3.
6	1 to 8	Second half of page 8 to 14	Copy of emails in records 1 to 3 and 5.
7	1	Second half of page 1 to 14	Copy of emails in records 1 to 3, 5 and 6.
8	1 to 3	Second half of page 3 to 16	Copy of emails in records 1 to 3, 5 and 6.
9	1 to 3	Pages 4 to 30	Copy of emails in records 1 to 3, 5, 6, and 8, as well as a publicly available "Guidelines" document.
10	1 to 3	Second half of page 3 to page 25	Copy of emails in records 1 to 3, 5, 6, and 8, 9.

ISSUES:

- A. Do the emails contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- B. Does the mandatory personal privacy exemption at section 14(1) apply to the emails?

DISCUSSION:

Issue A: Do the emails contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?

[7] The RVCA withheld the emails pursuant to the mandatory exemption for personal privacy at section 14(1) of the *Act*. This exemption only applies to personal information. As a result, I must first decide whether the information at issue is "personal information,"

and if so, to whom it relates.

[8] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” Information is “about” an individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Information is about an “identifiable individual” if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.¹

[9] Generally, information about an individual in their professional, official or business capacity is not considered to be “about” the individual.² See also sections 2(2.1) and (2.2), which state:

(2.1) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

(2.2) For greater certainty, subsection (2.1) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[10] In some situations, even if information relates to an individual in a professional, official or business capacity, it may still be “personal information” if it reveals something of a personal nature about the individual.³

[11] Section 2(1) of the *Act* lists some examples of personal information, including the following that may be relevant in this appeal:

“personal information” means recorded information about an identifiable individual, including, ...

(d) the address, telephone number, fingerprints or blood type of the individual,

(e) the personal opinions or views of the individual except if they relate to another individual,

(f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to

¹ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

² Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

³ Orders P-1409, R-980015, PO-2225 and MO-2344.

that correspondence that would reveal the contents of the original correspondence, [...]

(h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

The RVCA's representations

[12] The RVCA submits that the emails contain the sender's personal information. It says that its staff received the emails from the sender's personal email account, and that the sender was acting in a personal capacity as a private citizen, expressing his own personal opinions when he sent them.

[13] The RVCA explains that it is responsible under the *Conservation Authorities Act* for furthering the conservation, restoration, development and management of natural resources in the Rideau watershed. It says this includes protecting people and property from natural hazards like flooding and erosion. It says that any proposed development, interference and alteration within a regulated area requires a permit from the RVCA.

[14] The RVCA says that the emails at issue contain opinions expressed by the sender, a private citizen, about the Jock River Subwatershed Study Update (the Study Update). Specifically, the RVCA says the emails contain information within the meaning of "personal information" as defined in section 2(1)(e) of the *Act*, "the personal views or opinions" of the sender.

[15] The RVCA says it considered whether any of the statutory exclusions in section 2(2), 2(2.1) or 2(2.2) of the *Act* applied and determined that they did not. The RVCA says it further determined that no portions of the emails could be severed and disclosed because the opinions expressed by the sender "pervaded the entire records."

[16] The RVCA notes that the Study Update was not a public document when the sender sent the emails. It confirms that the Study Update was not available to the public, nor was it provided to the sender as a private citizen. The RVCA specifies that the Study Update was only available to select city staff and partners.

The appellant's representations

[17] The appellant denies that the emails at issue contain "personal information" as defined in section 2(1) of the *Act*. They submit that the emails contain opinions developed by the sender in the course of his employment with the city and in relation to the same subject matter. As such, the appellant says the emails do not qualify as "personal information" and should be disclosed.

[18] The appellant submits that the sender is employed by the city's Infrastructure Services Department. The appellant explains that they are the proponent of a planned

community development that will be located within a neighbourhood to the north of the Jock River, which runs, in part, through the city. The appellant says that the Study Update is an update to a previous study that considers the additional development within the watershed.

[19] The appellant submits that information and records associated with the Study Update were not publicly available during the request period. Furthermore, they say that the sender was not assigned by the city to work on any portion of the study. Nonetheless, the appellant says that the sender used his position as a city employee to obtain non-public information related to the Study Update and then proceeded to comment on that information in his personal capacity seeking to influence the outcome. The appellant explains that it is these comments they seek to obtain.

[20] The appellant explains that they previously submitted a request under the *Act* to the RVCA with respect to all records containing correspondence from three city employees (including the sender) to the RVCA concerning the same development for an earlier period. They say the RVCA disclosed some records in full, which included email communications from the sender in his role as a city employee raising concerns about the development. The appellant explains that the RVCA withheld other records in full due to the personal privacy exemption section at section 14(1) of the *Act*. The appellant says they understand that these records were emails from the sender's personal email address to RVCA staff members, commenting on the development.

[21] The appellant says they appealed the RVCA's decision to the IPC, resulting in Appeal MA20-00556. They explain that the IPC upheld the RVCA's decision to withhold the email communications commenting on the development from the sender to RVCA staff members using his personal email address in Order MO-4307. In reaching this determination, the appellant says Adjudicator Silva stated at paragraph 31 of Order MO-4307 that:

...There is nothing in the records to suggest that the affected parties used information obtained from their employment to express their concerns about the approval of the permit application for the development; in fact, my review of the records reveals that the affected parties refer to publicly available information. While not automatically deemed to be personal information because the records were sent using personal email accounts, this is an important factor when analyzing whether records contain "personal information"...

[22] The appellant submits that the circumstances in Appeal MA20-00556 are different from the current appeal in that the emails at issue in the current appeal relate to the sender's comments on the Study Update, which was not publicly available at the time he sent the emails. As such, the appellant submits that the emails contain information solely gained by virtue of the sender's role as a city employee. The appellant notes that the RVCA expressly acknowledges this fact in its submissions. The appellant refers to

paragraph 16 of the RCVA's representations where it states that:

The nature of the two requests are very similar, however, the RVCA does acknowledge, as noted in bullet 5, that the documents [the sender] reviewed and commented on in this case were not publicly available. While the information provided to the RVCA from [the sender's] personal email account were his personal opinions, he was not privy to the draft document as a private citizen.

[23] As such, the Appellant submits that the opinions contained in the emails at issue in this inquiry: (1) were developed and submitted in a business, professional or official government context that is removed from the personal sphere; and (2) do not contain any information that, if disclosed, would reveal something of a personal nature about the sender.

[24] In support of its first point, the appellant relies on Order P-1409, which discusses the treatment of information associated with an individual's employment:

To summarize the approach taken by this office in past decisions on this subject, information which identifies an individual in his or her employment, professional or official capacity, or provides a business address or telephone number, is usually not regarded as personal information. This also applies to opinions developed or expressed by an individual in his or her employment, professional or official capacity, and information about other normal activities undertaken in that context. [emphasis added by appellant]

[25] The appellant says the adjudicator continued by explaining that if a broad interpretation were taken with respect to the "personal information" of government employees, professional staff and officials, it would frustrate the legislative intent in granting meaningful public access to information about the activities of government.

[26] The appellant argues that the Study Update that was the subject of the sender's emails to the RVCA was not publicly available to private citizens and the only reason the sender had access to it was by virtue of his employment at the city. In light of this, the appellant submits that the records at issue exist within a professional, business and official municipal government context as the sender would only have access to and knowledge of this specific information through his employment. Moreover, the appellant says their understanding is that the sender was not assigned to work on the study, which they say raises the question of how he came into possession of the study documents for the purpose of commenting in the emails.

[27] The appellant accepts that the sender sent the emails from his personal email account. However, they argue that:

...for this individual to be able to communicate further to the RVCA based on information gained solely by virtue of their employment status with the

City of Ottawa and to then be shielded from public disclosure of this communication by use of their personal email thwarts the legislative intent of the access scheme under [the *Act*]. A municipal employee should not be able to use his/her public employment status to gain access to non-public information, provide comments on that non-public information from a personal email account, and then claim such comments are shielded from public disclosure by virtue of the use of their personal email address. Such actions fundamentally undermine the public trust.

[28] In support of its second point, that the emails do not contain any information that, if disclosed, would reveal something of a personal nature about the sender, the appellant submits that changing the origin of the email communication (from a work email account to a personal email account) does not change the nature of the communication. They say that the information being commented upon was only accessible to the sender by virtue of his employment. The appellant submits that this significantly distinguishes this case from the circumstances in Order MO-4307, where it was found that the information being commented upon was public and did not depend on the sender's employment for access.

Findings and analysis

[29] For the reasons that follow I find that each of the emails the appellant seeks contain the sender's personal information, as defined by section 2(1) of the *Act*.

[30] Having reviewed each of the emails, I agree with the RVCA that they contain the sender's personal opinions and views related to the Study Update and that this information fits within paragraph (e) of the section 2(1) definition of personal information of the *Act*. Specifically, I find that the records contain information about the sender in a personal capacity. The emails demonstrate his personal efforts to raise concerns about the Study Update. Although the concerns raised in the emails may have been informed by the sender's education, professional training and/or employment, my view is that he sent the emails in his personal capacity to the RVCA.

[31] Even if I had found that the records contain information about the sender in a professional capacity, I would have nonetheless found that the information reveals something of a personal nature about him, namely, his personal opinions and views about the Study Update and his personal actions undertaken. These findings are similar to Adjudicator Silva's findings in Order MO-4307, referred to by the appellant above, because the information at issue and the issues are similar.

[32] I also find that, similar to Adjudicator Silva's finding in Order MO-4307, severing the sender's name from the emails would not render the sender unidentifiable since the request names the sender and asks for specific correspondence from him.

[33] In making this decision I have considered the appellant's arguments that the current situation is different from that in Order MO-4307 because the Study Update was

not publicly available when the sender sent the emails, and that the sender was only able to obtain it by virtue his employment at the city. In my view, the fact that sender is likely to have obtained the information through his position of employment does not, on its own and absent other factors, change the nature of the content of the communications or mean that they do not contain his personal information. Both the RVCA and the appellant agreed that the sender was not assigned by the city to any projects related to the Study Update. While it is not clear how the sender came to possess a copy of the Study Update, there appears to be no question that it did not relate to his employment or professional responsibilities at the city. In these circumstances, the opinions he expressed were clearly not in his employment, professional or official capacity.

[34] I acknowledge the appellant's concern that a municipal employee should not be able to use his/her public employment status to gain access to non-public information, provide comments on that non-public information from a personal email account, and then claim such comments are shielded from public disclosure by virtue of the use of their personal email address. I also acknowledge that paragraph 31 of Order MO-4307 appears to suggest that if an individual obtained information from their employment and used that information to express concerns about a project to an institution those concerns may not be considered personal information. However, my view remains that, in this case, the manner in which the sender obtained the Study Update does not change the fact that it did not relate to his employment or professional responsibilities at the city, and as such, neither do the comments he made to the RVCA about the Study Update in a personal capacity.

[35] Having found that the records contain the sender's personal information, I must now consider whether the mandatory personal privacy exemption in section 14(1) applies such that the RVCA must withhold them.

Issue B: Does the mandatory personal privacy exemption at section 14(1) apply to the emails?

[36] One of the purposes of the *Act* is to protect the privacy of individuals with respect to personal information about themselves held by institutions. Section 14(1) of the *Act* creates a general rule that an institution cannot disclose personal information about another individual to a requester. This general rule is subject to a number of exceptions.

[37] The section 14(1)(a) to (e) exceptions are relatively straightforward: if any of the five exceptions covered in sections 14(1)(a) to (e) exists, the institution must disclose the information.

[38] The section 14(1)(f) exception is more complicated. It requires the institution to disclose another individual's personal information to a requester only if this would not be an "unjustified invasion of personal privacy." Other parts of section 14 must be looked at to decide whether disclosure of the other individual's personal information would be an unjustified invasion of personal privacy.

[39] The RVCA says that it considered the exceptions listed at sections 14(1)(a) to (e) and determined that none applies. In particular, it says the sender did not consent to the disclosure of the information at issue, and the information is not generally available to the public. I agree with the RVCA and find that none of the exceptions in section 14(1)(a) to (e) of the *Act* applies.

Section 14(1)(f) exception: Disclosure is not an unjustified invasion of personal privacy

[40] The remaining exception is section 14(1)(f) of the *Act*, which allows an institution to disclose an individual's personal information if it would not be an "unjustified invasion of personal privacy."

[41] The RVCA submits that it determined that the release of the emails could constitute an unjustified intrusion upon the personal privacy of the sender and erred on the side of protecting personal privacy over the release of the records to the appellant.

[42] The appellant submits that the section 14(1)(f) exemption would permit the RVCA to disclose the emails as their release would not be an "unjustified invasion of personal information."

[43] Sections 14(2), (3) and (4) help in deciding whether disclosure would be an unjustified invasion of personal privacy. Sections 14(4) and 14(3)(a) to (h) are typically considered first.⁴ These sections outline several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy. If one of these presumptions applies, the personal information cannot be disclosed unless:

- there is a reason under section 14(4) that disclosure of the information would not be an "unjustified invasion of personal privacy," or
- there is a "compelling public interest" under section 16 that means the information should nonetheless be disclosed (the "public interest override").⁵

[44] Section 14(2) is usually considered last. It lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.⁶

Section 14(4): Do any of the situations listed in section 14(4) apply?

[45] If any of the paragraphs in section 14(4) of the *Act* apply, disclosure of personal information is **not** an unjustified invasion of personal privacy, even if one of the section

⁴ If any of the section 14(3) presumptions are found to apply, they cannot be rebutted by the factors in section 14(2) for the purposes of deciding whether the section 14(1) exemption has been established.

⁵ *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div. Ct.).

⁶ Order P-239.

14(3) presumptions exists.

[46] There is no suggestion in the parties' representations that any of the situations in section 14(4) of the *Act* are present. Based on my review of the records and the circumstances of this appeal, I find that none of the situations is present.

Section 14(3): Is disclosure presumed to be an unjustified invasion of personal privacy?

[47] The parties make no specific arguments about the presumptions in section 14(3) of the *Act* and I find that no presumption applies.

Section 14(2): Do any factors in section 14(2) help in deciding if disclosure would be an unjustified invasion of personal privacy?

[48] Section 14(2) lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.⁷ Some of the factors weigh in favour of disclosure, while others weigh against disclosure. If no factors favouring disclosure are present, the section 14(1) exemption — the general rule that personal information should not be disclosed — applies because the exception in section 14(1)(f) has not been proven.⁸

[49] The RVCA said that it considered the factors listed in section 14(2) but determined that there was no valid reason for disclosure.

[50] The appellant says that section 14(2)(a) applies to the information at issue. Section 14(2)(a) states the following:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

(a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;

[51] This section supports disclosure when disclosure would subject the activities of the government (as opposed to the views or actions of private individuals) to public scrutiny.⁹ It promotes transparency of government actions. Previous orders have stated that institutions should consider the broader interests of public accountability when considering whether disclosure is "desirable" or appropriate to allow for public scrutiny of its activities.¹⁰

⁷ Order P-239.

⁸ Orders PO-2267 and PO-2733.

⁹ Order P-1134.

¹⁰ Order P-256.

[52] The appellant argues that section 14(2)(a) should be considered to ensure public confidence in an institution. Specifically, they argue that shielding a city employee's communications from disclosure merely because they were conveyed by the sender's personal email account thwarts the accessibility scheme of the *Act* if those records contain communications discussing information gained and opinions developed solely in relation to the sender's position as a city employee. I do not agree with the appellant's characterization of the situation. As I concluded above, the sender was not acting as a city employee when he sent the emails to the RVCA. He was acting in a personal capacity as a private citizen.

[53] Furthermore, because the opinions expressed in the emails are those of the sender in his personal capacity, I am unable to see how the disclosure of the emails would subject the activities of the institution (either the city or the RVCA) to public scrutiny. I find that section 14(2)(a) does not apply.

[54] As explained in the Notices of Inquiries sent to the parties, the list of factors under section 14(2) is not a complete list and institutions must also consider any other circumstances that are relevant, even if these circumstances are not listed under section 14(2).¹¹

[55] The appellant says that for the sender to be able to use his employment to gain access to government records, particularly if access to such records was not part of his duties, and then express personal and professional opinions on those records to another government agency (the RVCA) while having those opinions shielded from the public discourse, solely because he used a personal email account, frustrates the legislative scheme of the *Act*.

[56] The RVCA does not dispute the appellant's position that the Study Update was not a publicly available document when the emails were sent and had not been provided to the sender as a private citizen. The RVCA says the draft study update was only available to select staff and partners, including city staff. The RVCA says that while the information provided to the RVCA from the sender's personal email account constituted his personal opinions, he was not privy to the study as a private citizen.

[57] It is not clear from the evidence before me how specifically the sender came to be in possession of a copy of the Study Update. Presumably, he obtained it by virtue of his workplace, but perhaps not in the course of his employment duties. As I explained above, the manner in which the sender came to have a copy of the Study Update does not change the fact that he was not in any way assigned to work on the Study Update as part of his employment. The evidence before me is clear that the emails he sent to the RVCA were not sent in the course of his professional duties as a city employee and contained his personal views and opinions about the content of Study Update. I set out my reasons above for determining that the information at issue is personal information,

¹¹ Order P-99.

and the *Act* sets the circumstances where personal information is protected from disclosure. In my view, the purpose of the *Act* is not thwarted by upholding the RVCA's decision to apply the *Act* in the manner it did. At least some of the appellant's concern seems to be that the sender either should not have had access to the study, or that he should not have been permitted to comment on it outside of the workplace. The evidence before me is not clear about how the appellant obtained a copy of the Study Update, whether he was permitted access by his employer, and/or if there were any limitations on what he could do with the information. In any event, these are not issues that are before me in this inquiry.

[58] For the reasons set out above, I find that the appellant has not established that a factor favouring disclosure applies. As a result, I do not need to consider the factors favouring non-disclosure. In this case, the general rule that personal information should not be disclosed applies because the exception in section 14(1)(f) has not been proven. I find that disclosure of the records would be an unjustified invasion of personal privacy and they are exempt from disclosure under section 14(1) of the *Act*.

ORDER:

I uphold the RVCA's decision to withhold the records from the appellant and dismiss the appeal.

Original Signed by: _____
Meganne Cameron
Adjudicator

June 30, 2025