

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-4764

Appeal MA24-00417

City of Stratford

February 13, 2026

**Summary:** A city received a request under the *Act* for records related to the decision to bar the requester from city property. The city granted access to some responsive records, but fully withheld others on the basis that the *Act* does not apply to those records under the exclusion at section 52(3)3 (labour relations or employment-matters). In this order, the adjudicator agrees that the *Act* does not apply to the responsive records 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, section 52(3)3.

**Orders Considered:** Orders MO-3543 and MO-3386.

### OVERVIEW:

[1] The City of Stratford (the city) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to:

Any and all reports, complaints, notes, or other records relating to the decision to bar me from City property as specified in the letter to me from [named individual] on behalf of the City dated about [date].

[2] The city issued a decision and an accompanying index of records, granting full

access to some records,<sup>1</sup> but fully withholding other records under the exclusion at section 52(3)3 (labour relations or employment-related matters in which the institution has an interest) and two discretionary exemptions.<sup>2</sup>

[3] The requester, now the appellant, appealed the city's decision to the Information and Privacy Commissioner of Ontario (IPC).

[4] The IPC appointed a mediator to explore resolution, but mediation could not resolve the dispute. As a result, the appeal moved to the adjudication stage, where an adjudicator may conduct an inquiry.

[5] I conducted a written inquiry under the *Act* and received written representations from the city and the appellant. I shared the city's representations about section 52(3)3 with the appellant. After reviewing the appellant's representations, I decided that I did not need to seek a reply from the city or refer to them in this order.<sup>3</sup>

[6] For the reasons that follow, I uphold the city's determination that each record is excluded from the scope of the *Act* under section 52(3)3 of the *Act*. That means that there is no right of access to these records under the *Act*. As a result, I will not consider the city's alternate claim of exemptions over some records.

## **RECORDS:**

[7] The records at issue are records 1-6 and 8-15, as described in the index of records that the city attached to its access decision, and as described below in a summary of the city's representations.

## **DISCUSSION:**

[8] The only issue I address in this order is whether the section 52(3)3 exclusion for records relating to labour relations or employment matters applies to the records.

[9] Section 52(3) of the *Act* excludes certain records held by an institution that relate to labour relations or employment matters. If the exclusion applies, the record is not subject to the access scheme in the *Act*, although the institution may choose to disclose it outside of the *Act*'s access scheme.<sup>4</sup> The purpose of this exclusion is to protect some

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<sup>1</sup> Records 7, 16, 17, and 18.

<sup>2</sup> At sections 6(1)(b) (closed meeting) and 12 (solicitor-client privilege) of the *Act*.

<sup>3</sup> The appellant opposes the city's claim that the exclusion applies but raises matters that do not pertain to the test for the exclusion. I do not address these representations because they are beyond the scope of this appeal and my authority under the *Act*.

<sup>4</sup> Order PO-2639.

confidential aspects of labour relations and employment-related matters.<sup>5</sup>

[10] The city relies on section 52(3)3, which says:

Subject to subsection (4), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

3. Meetings, consultations, discussions or communications about labour relations or employment related matters in which the institution has an interest.

[11] If section 52(3) applies to the records, and none of the exceptions found in section 52(4) applies, the records are excluded from the scope of the *Act*. If section 52(3) applied at the time the record was collected, prepared, maintained or used, it does not stop applying at a later date.<sup>6</sup>

[12] The type of records excluded from the *Act* by section 52(3) are those relating to matters in which the institution is acting as an employer, and terms and conditions of employment or human resources questions are at issue.<sup>7</sup>

[13] For the collection, preparation, maintenance or use of a record to be "in relation to" one of the three subjects mentioned in this section, there must be "some connection" between them.<sup>8</sup> The "some connection" standard must, however, involve a connection relevant to the scheme and purpose of the *Act*, understood in their proper context. For example, given that accountability for public expenditures is a core focus of freedom of information legislation, accounting documents that detail an institution's expenditures on legal and other services in collective bargaining negotiations do not have "some connection" to labour relations.<sup>9</sup>

[14] The term "employment of a person" refers to the relationship between an employer and an employee. The term "employment-related matters" refers to human resources or staff relations issues arising from the relationship between an employer and employees that do not arise out of a collective bargaining relationship.<sup>10</sup>

[15] For section 52(3)3 to apply, the institution must establish that:

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<sup>5</sup> *Ontario (Ministry of Community and Social Services) v. John Doe*, 2015 ONCA 107 (CanLII).

<sup>6</sup> *Ontario (Solicitor General) v. Ontario (Assistant Information and Privacy Commissioner)* (2001), 55 O.R. (3d) 355 (C.A.), leave to appeal refused [2001] S.C.C.A. No. 509.

<sup>7</sup> *Ontario (Ministry of Correctional Services) v. Goodis* (2008), 2008 CanLII 2603 (ON SCDC).

<sup>8</sup> Order MO-2589; see also *Ministry of the Attorney General and Toronto Star and Information and Privacy Commissioner*, 2010 ONSC 991 (Div. Ct.).

<sup>9</sup> Order MO-3664, *Brockville (City) v. Information and Privacy Commissioner, Ontario*, 2020 ONSC 4413 (Div Ct.).

<sup>10</sup> Order PO-2157.

1. the records were collected, prepared, maintained or used by an institution or on its behalf;
2. this collection, preparation, maintenance or use was in relation to meetings, consultations, discussions or communications; and
3. these meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the institution has an interest.

[16] The city explains that in 2023, it adopted a Respectful Workplace Policy (“the policy”), which it enclosed with its representations for my review. The purpose of the policy was to:

- define behaviour that may create unsafe or harmful conditions that negatively impact the experience of people who work at the city, access city services and visit the workplace,
- contribute to the overall intent of dealing with people in ways which are consistent, equitable, and reasonable while acknowledging that there may be a need to ensure that employees, council members and members of the public are not exposed to any disrespectful and inappropriate behaviours, and
- outline how these behaviours will be addressed when they occur on city property or in association with any service, program or event provided by, or associated with the city.

[17] The city explains that the policy applies to all members of the public, employees, volunteers, and council members, to all in-person interactions, and to all forms of communication, including social media, telephone, and written correspondence (electronic or hardcopy). The city notes that the policy is also intended to align with other city policies related to conduct.<sup>11</sup>

[18] The city says that the policy includes a procedure for reporting an incident of disrespectful or inappropriate behaviour, including requiring incident forms to be completed and an investigation procedure after incident forms are received. The city states that after specific incident(s) at a certain regular council meeting, one or more city employee(s) filed complaints of disrespectful and inappropriate behaviour under the policy. The city explains that the records include:

- a closed meeting report,
- a legal opinion and presentation prepared the city’s solicitor,

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<sup>11</sup> More specifically, the city’s Workplace Harassment, Sexual Harassment and Discrimination Policy, Workplace Violence Policy, Code of Conduct Policies, Health and Safety Policy and the Facilities Code of Conduct Policy.

- emails and completed respectful workplace incident forms,
- witness statements, and
- notes.

### **Part 1: collected, prepared, maintained or used**

[19] The city submits that these records were prepared, collected, and used by the city (specifically, the city's employees or contracted legal counsel), on the city's behalf, in response to a specific complaint made by one or more city employee(s) and in relation to a city investigation in response to the complaint. Based on my review of each record, I agree with the city. I find that each record meets part one of the test because it was prepared, collected, and used by the city, or on behalf of the city. This is clear to me from the nature of the records, as described above.

### **Part 2: meetings, consultations, discussions or communications**

[20] Likewise, since the records are complaint forms under the policy and related records, I accept the city's submissions that each record was prepared and/or used by the city as an employer in relation to meetings, consultations, discussions or communications. Therefore, I find that each record meets part two of the test.

### **Part 3: labour relations or employment-related matters in which the institution has an interest**

[21] The phrase "labour relations or employment-related matters" has been found to apply in the context of, for example: a job competition;<sup>12</sup> a grievance under a collective agreement;<sup>13</sup> and a review of "workload and working relationships."<sup>14</sup> The phrase "labour relations or employment-related matters" has been found *not* to apply in the context of an organizational or operational review<sup>15</sup> or litigation in which the institution may be found vicariously liable for the actions of its employee.<sup>16</sup> The phrase "in which the institution has an interest" means more than a "mere curiosity or concern," and refers to matters involving the institution's own workforce.<sup>17</sup>

[22] The records are excluded *only* if the meetings, consultations, discussions or communications are about labour relations or "employment-related" matters in which the institution has an interest. Matters related to the actions of employees, for which an institution may be responsible are not employment-related matters for the purpose of

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<sup>12</sup> Orders M-830 and PO-2123.

<sup>13</sup> Orders M-832 and PO-1769.

<sup>14</sup> Order PO-2057.

<sup>15</sup> Orders M-941 and P-1369.

<sup>16</sup> Orders PO-1722, PO-1905 and *Ontario (Ministry of Correctional Services) v. Goodis*, cited above.

<sup>17</sup> *Ontario (Solicitor General) v. Ontario (Assistant Information and Privacy Commissioner)*, cited above.

section 52(3).<sup>18</sup>

[23] The city submits that the meetings, consultations, discussions, or communications were about employment-related matters in which it has an interest. It says that the records relate to the city's investigation and response to a complaint made by one or more city employee(s) under a city policy related to the employee's (and city's) work environment.

[24] The city relies on Orders MO-3543 and MO-3386, where records regarding an institution's employee's (and the institution's) work environment were found to be excluded under section 52(3)3. It explains that the records in those appeals were created as a result of an employee's complaints about conduct, made under the institution's Respectful Workplace Policy. It submits that the IPC found that the records were employment-related matters because part of the institution's responsibility as an employer was to investigate complaints of inappropriate behaviour and workplace harassment and those matters directly relate to the employment relationship between the institution as employer and its employees. The city submits that likewise, here, the records all arise out of the city's employment relationship with its employees. The city submits that it has an interest in these matters because the complaints were made by one or more city employees and relate to the employee's and city's workplace environment.

[25] I agree with the reasoning in Orders MO-3543 and MO-3386 and adopt it here. I find that each record at issue arises out of the city's employment relationship with one or more of its employees. I also find that the city has an interest in the subject matter of the records because they are records related to complaints filed by one or more of its employees and relate to the employee's and the city's workplace environment. Therefore, I find that each record meets part three of the test.

[26] In conclusion, I find that the records are excluded from the scope of the *Act* by section 52(3) and the exceptions to the exclusion at section 53(4) do not apply.<sup>19</sup> Since I have found that the *Act* does not apply to the records, I do not need to consider the city's alternate arguments and exemption claims.

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<sup>18</sup> *Ministry of Correctional Services*, cited above.

<sup>19</sup> Section 52(4) states that the *Act* applies to the following records:

1. An agreement between an institution and a trade union.
2. An agreement between an institution and one or more employees which ends a proceeding before a court, tribunal or other entity relating to labour relations or to employment-related matters.
3. An agreement between an institution and one or more employees resulting from negotiations about employment-related matters between the institution and the employee or employees.
4. An expense account submitted by an employee of an institution to that institution for the purpose of seeking reimbursement for expenses incurred by the employee in his or her employment.

**ORDER:**

I dismiss the appeal.

Original Signed by: \_\_\_\_\_  
Marian Sami  
Adjudicator

February 13, 2026 \_\_\_\_\_