

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4787

Appeal PA22-00400

Ministry of Health

February 13, 2026

Summary: An individual made a request under the *Freedom of Information and Protection of Privacy Act* to the Ministry of Health for access to records related to specified health-related testing. The ministry issued a decision granting partial access withholding information under the exemptions for Cabinet records (section 12(1)), advice or recommendations (section 13(1)), and solicitor-client privilege (section 19).

In this order, the adjudicator upholds the ministry's decision to deny access to the withheld information because it would reveal Cabinet deliberations, is advice or recommendations, or is subject to solicitor-client privilege. She dismisses the appeal.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 12(1), 13(1), and 19.

OVERVIEW:

[1] The Ministry of Health (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for information related to specified health-related testing from March 30, 2020 to January 1, 2022, including:

...[A]ll notes, documentation, correspondence, emails, reports with evidence of above held by Chief Medical Officer [named person], Minister of Health [named person], Minister of Education [named person], Ontario Premier [named person.]

[2] The request was subsequently narrowed to the following:

Any strain of Sars Covid that can be detected by a PCR test, Rapid Test, Antigen test, and accuracy rate.

Request is for all notes, documentation, correspondence, emails, reports with evidence of above held by Chief Medical Officer [named person], Minister of Health [named person.]

[3] The ministry issued a decision granting partial access to the records withholding information under sections 12(1) (Cabinet records), 13(1) (advice or recommendations), 14(1)(e) (endanger life or safety), 19 (solicitor-client privilege), and 20 (danger to safety or health) of the *Act*.

[4] The appellant appealed the ministry's decision to the Information and Privacy Commissioner of Ontario (IPC), and a mediator was appointed to explore resolution.

[5] During mediation, the ministry confirmed in addition to the previously claimed exemptions, it was also withholding information under section 22(a) (information available to the public) and as non-responsive to the request.

[6] The appellant confirmed that he does not seek access to information withheld under sections 14(1)(e), 17, 20, and 22, or to non-responsive information.¹ He confirmed that he continues to seek access to information withheld by the ministry under sections 12(1), 13(1), and 19.

[7] As a mediated resolution was not possible, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*. I conducted an inquiry in which I sought and received representations from the parties about the issues in the appeal.²

[8] In this order, I uphold the ministry's decision to deny access to the withheld information because I find that it would reveal Cabinet deliberations, is advice or recommendations, or is subject to solicitor-client privilege and exempt from disclosure under sections 12(1), 13(1), or 19 of the *Act*.

¹ Accordingly, records 2 (in part), 4, 4.1.1, 4.12, 4.6, 12, 12.1, 13.1, 14.1 (in part), 15 (in part), 15.1 (in part), 17, and 17.3 are no longer at issue.

² Portions of the ministry's representations were withheld in accordance with the confidentiality criteria in the IPC's *Code of Procedure*.

RECORDS:

[9] The following records remain at issue:³

Records	Description	Exemption(s) Claimed
1	Email describing/attaching briefing materials for the Cabinet/Premier	12(1)
1.1	Slide deck for briefing Cabinet/Premier	
3	Email describing/attaching briefing materials for the Minister/public servants	
3.1	Slide deck for briefing for the Minister/public servants	
5	Email describing/attaching briefing materials for the Cabinet	
6	Email describing/attaching briefing materials for the Cabinet	
7	Email describing/attaching briefing materials for the Cabinet	
7.1/16.1 ⁴	Slide deck for briefing Cabinet	
8	Email describing/attaching briefing materials for the Cabinet	
8.1	Slide deck for briefing Cabinet	
9	Email describing/attaching briefing materials for the Minister/public servants	
9.1	Briefing materials for the Minister/public servants	
9.2	Slide deck for briefing the Minister/public servants	
10	Email describing/attaching briefing materials for the Minister/public servants	

³ The records were set out in an Index of Records that was provided to the appellant. Record 14 was disclosed in full to the appellant. During the inquiry, the ministry agreed to disclose records 2 and 2.1 to the appellant and they are no longer at issue.

⁴ Record 16.1 is a duplicate of record 7.1.

10.1	Slide deck for briefing the Minister/public servants	
11	Email describing/attaching briefing materials for the Minister/public servants	
11.1	Briefing materials for the Minister/public servants	
14.1 (in part)	Briefing materials for the Minister/public servants	13(1) & 19
15 (in part)	Email describing/attaching briefing materials for the Cabinet	12(1)
15.1 (in part)	Briefing materials for the Cabinet	13(1) & 19
16	Email describing/attaching briefing materials for the Cabinet	12(1)

ISSUES:

- A. Does the mandatory exemption at section 12(1) relating to Cabinet deliberations apply to records 1, 1.1, 3, 3.1, 5-11.1, 15, and 16?
- B. Does the discretionary exemption at section 13(1) for advice or recommendations given to an institution apply to records 14.1, and 15.1?
- C. Does the discretionary solicitor-client privilege exemption at section 19 of the *Act* apply to records 14.1 and 15.1?

DISCUSSION:

Issue A: Does the mandatory exemption at section 12(1) relating to Cabinet deliberations apply to records 1, 1.1, 3, 3.1, 5-11.1, 15, and 16?

[10] The ministry submits that the Cabinet records exemption at section 12(1) of the *Act* applies to records 1, 1.1, 3, 3.1, 5-11.1, 15, and 16, while the appellant submits that it does not.

[11] Section 12(1) protects certain records relating to meetings of Cabinet or its committees. Section 12(1) sets out specific examples of types of records subject to the exemption in paragraphs (a) to (f). The relevant portion states:

A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of the Executive Council or its committees, including,

(b) a record containing policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees;

[12] The Executive Council, which is more commonly known as Cabinet, is a council of ministers of the Crown and is chaired by the Premier of Ontario.

[13] The Supreme Court of Canada in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*⁵ (*Mandate Letters Decision*) recognized three underlying rationales for Cabinet secrecy: candour, solidarity and efficiency. It described these underlying rationales as follows:

... Collective ministerial responsibility requires that ministers be able to speak freely when deliberating without fear that what they say might be subject to public scrutiny [...]. This is necessary so ministers do not censor themselves in policy debate, and so ministers can stand together in public, and be held responsible as a whole, once a policy decision has been made and announced. These purposes are referred to by scholars as the "candour" and "solidarity" rationales for Cabinet confidentiality [...]. At base, Cabinet confidentiality promotes executive accountability by permitting private disagreement and candour in ministerial deliberations, despite public solidarity [...].

Scholars also refer to a third rationale for the convention of Cabinet confidentiality: it promotes the efficiency of the collective decision-making process [...]. Thus, Cabinet secrecy promotes candour, solidarity, and efficiency, all in aid of effective government. ...⁶

[14] In the *Mandate Letters Decision*, the Supreme Court of Canada also articulated specific guidance on how issues arising under the opening words of section 12(1) should be approached in light of these underlying rationales:

In approaching assertions of Cabinet confidentiality, administrative decision makers and reviewing courts must be attentive not only to the vital importance of public access to government-held information but also to Cabinet secrecy's core purpose of enabling effective government, and its underlying rationales of efficiency, candour, and solidarity. They must also be attentive to the dynamic and fluid nature of executive decision making, the function of Cabinet itself and its individual members, the role of the Premier, and Cabinet's prerogative to determine when and how to announce its decisions.

Such an approach reflects the opening words of s. 12(1), which mandate a substantive analysis of the requested record and its substance to determine

⁵ 2024 SCC 4.

⁶ *Mandate Letters Decision* at paras 29-30.

whether disclosure of the record would shed light on Cabinet deliberations, rather than categorically excluding certain types of information from protection. Thus, "deliberations" understood purposively can include outcomes or decisions of Cabinet's deliberative process, topics of deliberation, and priorities identified by the Premier, even if they do not ultimately result in government action. And decision makers should always be attentive to what even generally phrased records could reveal about those deliberations to a sophisticated reader when placed in the broader context. The identification and discussion of policy priorities in communications *among Cabinet members* are more likely to reveal the substance of deliberations, especially when considered alongside other available information, including what Cabinet chooses to do.⁷

Representations, analysis and findings

[15] Based on my review of records 1, 1.1, 3, 3.1, 5-11.1, 15, and 16 and the representations of the parties, I find that the withheld information is exempt under section 12(1) of the *Act* because its disclosure would reveal the substance of Cabinet deliberations.

[16] The ministry submits, and I accept, that for the purpose of the section 12(1) exemption, the records can be grouped into three categories:

- A. Briefing materials for Cabinet or the Premier (records 1.1, 7.1, and 8.1);
- B. Briefing materials for the Minister and public servants (records 3.1, 9.1, 9.2, 10.1, and 11.1); and
- C. Emails describing/attaching briefing materials under categories A and B (records 1, 3, 5-11, 15, and 16).

[17] The ministry submits that each of these types of records are exempt under section 12(1) as they would reveal the substance of Cabinet deliberations if they were disclosed.

[18] The appellant states that his request is simple, he wants to know, "what does a PCR test detect?" He argues that this is not a Cabinet discussion, but a basic scientific question. The appellant alleges that the ministry is using the Cabinet exemption to avoid responding and is not acting in good faith. The appellant submits that it is "alarming" that the ministry has "taken great lengths for two years to avoid answering a very basic question of science" and is now "hiding behind 'Cabinet Confidentiality.'"

A) Briefing materials for Cabinet or the Premier – records 1.1, 7.1, and 8.1

[19] These records are a series of slide decks for briefing the Premier and Cabinet. I

⁷ *Mandate Letters Decision*, at paras 61-62.

am unable to comment further on their contents without revealing the substance of them. Generally, these records contain implementation options or decision points for the Cabinet's/Premier's deliberation. It is evident that these records were created and presented to the Cabinet/Premier for the purpose of making informed decisions in the context of the pandemic.

[20] Based on my review of records 1.1, 7.1, and 8.1, I am satisfied that they are exempt from disclosure under section 12(1)(b), because they are records that contain policy options or recommendations presented to Cabinet (Executive Council) for their deliberation.

B) Briefing materials for the Minister and public servants – records 3.1, 9.1, 9.2, 10.1, and 11.1

[21] Based on my review of the records in category B and the representations of the parties, I find these records are exempt from disclosure under the introductory wording in section 12(1).

[22] Previous IPC decisions have established that the use of the word “including” in the introductory language of section 12(1) means that any record which would reveal the substance of deliberations of Cabinet or its committees qualifies for exemption under section 12(1), not just the types of records listed in paragraphs (a) to (f).⁸

[23] Further, it is possible for a record that has never been placed before Cabinet or its committees to qualify for exemption under the introductory wording of section 12(1), if it is established that disclosing the record would reveal the substance of deliberations of Cabinet or its committees, or that its disclosure would permit the drawing of accurate inferences with respect to these deliberations.⁹ The institution must provide sufficient evidence to show a link between the content of the record and the actual substance of Cabinet deliberations.¹⁰ Such evidence is particularly important where a record at issue was never placed before Cabinet.

[24] The ministry submits that, although the records in category B were not put directly before Cabinet, the information in these records was directly incorporated into the briefing materials that were ultimately placed before Cabinet, and their disclosure would reveal the substance of Cabinet deliberations.

[25] As with the records in category A, I am unable to comment on the contents of the records in category B without revealing their substance. Generally, the records in category B contain information about previous Cabinet deliberations and information that was incorporated into presentations and other briefing materials that were submitted to Cabinet. These records were prepared by the ministry to assist in the preparation of

⁸ Orders P-22, P-1570 and PO-2320.

⁹ Orders P-361, PO-2320, PO-2554, PO-2666, PO-2707 and PO-2725.

¹⁰ Order PO-2320.

pandemic-related policy options and decisions, which were eventually presented to Cabinet.

[26] The information in the records in category B includes scientific data, analyses, and options. I find that this information, both in its nature and scope, is sufficiently detailed that it would have been included in materials provided to Cabinet. I also find that the ministry has provided sufficient evidence to demonstrate a link between the information contained in these records and the deliberations of Cabinet on decisions related to the pandemic. In particular, I find that disclosure of these records would permit the drawing of accurate inferences with respect to Cabinet deliberations.

[27] For the reasons above, I find that the mandatory exemption at section 12(1) relating to Cabinet deliberations apply to records 1, 1.1, 3, 3.1, 5-11, and 16 and they are exempt from disclosure.

C) Emails describing/attaching briefing materials under categories A and B – records 1, 3, 5-11, 15, and 16

[28] Based on my review of the records in category C and the representations of the parties, I also find these records are exempt from disclosure under the introductory wording in section 12(1).

[29] From my review of the records in category C, they are emails that describe and attach the records in categories A and B. The names and titles of the attachments to these emails contain information that convey the subject of the briefing materials as well as other particulars of the records in categories A and B. Specifically, records 1, 3, 5-8, and 16 reference the subject matter for Cabinet updates in the email subject line and attachment name. Records 9-11 reference Cabinet report-backs or submissions; and record 8 references revisions based on feedback from Cabinet. I find that the information in these emails is sufficiently detailed that disclosure of these records would permit the drawing of accurate inferences with respect to Cabinet deliberations.

[30] Accordingly, I find records 1, 3, 5-11, 15, and 16 are exempt from disclosure under the introductory wording in section 12(1).

Severance

[31] I considered whether the information exempt under section 12(1) could be severed from the category C emails so the rest of the emails could be disclosed to the appellant. However, based on my review of the emails, this information is so substantive that severing it would result in snippets of meaningless or misleading information remaining, which institutions are not required to release.¹¹ Therefore, I find that the emails cannot be severed and disclosed to the appellant.

¹¹ Order PO-2612.

Sections 12(2) exceptions

[32] Section 12(2) establishes circumstances under which the section 12(1) exemption does not apply, stating:

Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record where,

(a) the record is more than twenty years old; or

(b) the Executive Council for which, or in respect of which, the record has been prepared consents to access being given.

[33] Turning to the exceptions in section 12(2), I find that neither apply to the information that the ministry has withheld under section 12(1) in this appeal. First, the records are not over 20 years old. Second, the head of an institution is not required under section 12(2)(b) to seek the consent of Cabinet to release the records, but must at least turn their mind to it.¹² Only the Cabinet in respect of which the records were prepared can consent to the disclosure of the records.¹³ I accept that the ministry considered Cabinet consent and exercised its discretion to not seek it. Therefore, I find that the exceptions in section 12(2) do not apply to the information I find is exempt under section 12(1).

Issue B: Does the discretionary exemption at section 13(1) for advice or recommendations given to an institution apply to records 14.1, and 15.1?

[34] The ministry submits that the section 13(1) exemption applies to portions of records 14.1, and 15.1 because the information would reveal advice or recommendations given to an institution.

[35] Section 13(1) states:

A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

[36] This exemption aims to preserve an effective and neutral public service by ensuring that people employed or retained by institutions are able to freely and frankly advise and make recommendations within the deliberative process of government decision-making and policy-making.¹⁴

[37] Section 13(1) applies if disclosure would “reveal” advice or recommendations, either because the information itself consists of advice or recommendations or the

¹² Orders P-771, P-1146 and PO-2554.

¹³ Order PO-2422.

¹⁴ *John Doe v. Ontario (Finance)*, 2014 SCC 36, at para. 43.

information, if disclosed, would permit the drawing of accurate inferences as to the nature of the actual advice or recommendations.¹⁵ The relevant time for assessing the application of section 13(1) is the point when the public servant or consultant prepared the advice or recommendations.

Representations, analysis and findings

[38] After reviewing the representations of the parties and the records at issue, I find that section 13(1) applies to the withheld portions of records 14.1 and 15.1, and that none of the exceptions in section 13(2) apply in the circumstances of this appeal.

[39] The ministry submits that the section 13(1) exemption applies to the withheld portions of records 14.1, and 15.1.

[40] The appellant's representations do not specifically address the section 13(1) exemption.

[41] As the ministry describes, and from my review, records 14.1 and 15.1 are decision notes prepared for the Deputy Minister. The notes seek approval to use a specific type of rapid antigen test without an analyzer and use of a specific nasopharyngeal swab.

[42] The ministry submits that the withheld portions of these records set out the ministry's recommended decision to the Deputy Minister and considers legal advice in the preceding section, which the ministry has withheld under section 19.¹⁶ It argues that applying section 13(1) to these sections of the records is consistent with a recent IPC decision where similar records such as briefing notes, issue notes, and decision notes were also found to be exempt under section 13(1) for being evaluative in nature and not merely factual, and for clearly containing recommendations regarding different policy options and recommended courses of action.¹⁷

[43] "Advice" and "recommendations" have distinct meanings. "Recommendations" refers to a suggested course of action that will ultimately be accepted or rejected by the person being advised. Recommendations can be express or inferred. "Advice" has a broader meaning than "recommendations." It includes "policy options," which are the public servant or consultant's identification of alternative possible courses of action. "Advice" includes the views or opinions of a public servant or consultant as to the range of policy options to be considered by the decision maker even if they do not include a specific recommendation on which option to take.¹⁸ "Advice" involves an evaluative

¹⁵ Orders PO-2084, PO-2028, upheld on judicial review in *Ontario (Ministry of Northern Development and Mines) v. Ontario (Assistant Information and Privacy Commissioner)*, [2004] O.J. No. 163 (Div. Ct.), aff'd [2005] O.J. No. 4048 (C.A.), leave to appeal refused [2005] S.C.C.A. No. 564; see also Order PO-1993, upheld on judicial review in *Ontario (Ministry of Transportation) v. Ontario (Information and Privacy Commissioner)*, [2005] O.J. No. 4047 (C.A.), leave to appeal refused [2005] S.C.C.A. No. 563.

¹⁶ I will consider this claim under Issue C below.

¹⁷ Order PO-4350.

¹⁸ *Ibid*, at paras. 26 and 47.

analysis of information.

[44] From my review, I find that the withheld portions of records 14.1 and 15.1 contain proposals for a specific type of test and swab. I am satisfied that the withheld information consists of alternative courses of action that could be accepted or rejected in relation to a decision that is to be made, which fits within the definition of “advice” under section 13(1) of the *Act*. Therefore, I find that disclosure of the withheld portions of records 14.1 and 15.1 would reveal information that is exempt under section 13(1).

[45] Sections 13(2) and (3) create a list of mandatory exceptions to the section 13(1) exemption. If the information falls into one of these categories, it cannot be withheld under section 13(1). Having reviewed the withheld portions of records 14.1 and 15.1 at issue, I find that none of the mandatory exceptions listed in section 13(2) and (3) apply to the withheld portions of records 14.1 and 15.1.

[46] Accordingly, I find that the portions of records 14.1 and 15.1 that the ministry withheld under section 13(1) are exempt from disclosure.

Exercise of Discretion

[47] The section 13(1) exemption is discretionary, meaning that the ministry can decide to disclose information even if the information qualifies for exemption. The ministry must exercise its discretion. On appeal, I may determine whether the ministry failed to do so.

[48] The ministry submits that it properly exercised its discretion to withhold portions of records 14.1 and 15.1 under section 13(1). The ministry submits that in doing so, it considered relevant factors in exercising its discretion, including the purpose of the *Act*, the wording of the exemption, and how the ministry consistently treats this type of information.

[49] After considering the representations of the parties and the circumstances of this appeal, I find that the ministry did not err in its exercise of discretion with respect to its decision to withhold portions of records 14.1 and 15.1 under section 13(1) of the *Act*. I am satisfied that the ministry considered relevant factors in the exercise of its discretion. In particular, I am satisfied that the ministry considered the purpose of the *Act* and the wording of the section 13(1) exemption.

[50] Accordingly, I find that the ministry exercised its discretion in an appropriate manner, and I uphold its decision to withhold portions of records 14.1 and 15.1 under section 13(1).

Issue C: Does the discretionary solicitor-client privilege exemption at section 19 of the *Act* apply to records 14.1 and 15.1?

[51] The ministry claims that portions of records 14.1 and 15.1 are solicitor-client privileged information and exempt from disclosure under section 19 of the *Act*, while the

appellant argues that they are not.

[52] Section 19 exempts certain records from disclosure, either because they are subject to solicitor-client privilege or because they were prepared by or for the institution's legal counsel. Section 19 states:

A head may refuse to disclose a record,

- (a) that is subject to solicitor-client privilege,
- (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation or
- (c) that was prepared by or for counsel employed or retained by an educational institution or a hospital for use in giving legal advice or in contemplation of or for use in litigation.

[53] Section 19 contains three different exemptions, which the IPC has referred in previous decisions as making up two "branches."

[54] The first branch, found in section 19(a), ("subject to solicitor-client privilege") is based on common law. The second branch, found in sections 19(b) and (c), ("prepared by or for Crown counsel" or "prepared by or for counsel employed or retained by an educational institution or hospital") contains statutory privileges created by the *Act*.

[55] The institution must establish at least one branch applies. Since I find below that the first branch applies to the withheld portions of records 14.1 and 15.1, I will not address the second branch and the ministry's arguments regarding it.

Branch 1: common law privilege

[56] At common law, solicitor-client privilege encompasses two types of privilege:

- solicitor-client communication privilege; and
- litigation privilege.

[57] In this appeal, the ministry claims that common law solicitor-client communication privilege applies to the records.

Common law solicitor-client communication privilege

[58] The rationale for the common law solicitor-client communication privilege is to ensure that a client may freely confide in their lawyer on a legal matter.¹⁹ This privilege protects direct communications of a confidential nature between lawyer and client, or

¹⁹ Orders PO-2441, MO-2166 and MO-1925.

their agents or employees, made for the purpose of obtaining or giving legal advice.²⁰ The privilege covers not only the legal advice itself and the request for advice, but also communications between the lawyer and client aimed at keeping both informed so that advice can be sought and given.²¹

[59] Confidentiality is an essential component of solicitor-client communication privilege. The institution must demonstrate that the communication was made in confidence, either expressly or by implication.²² The privilege does not cover communications between a lawyer and a party on the other side of a transaction.²³

Representations, analysis and findings

[60] Based on my review of the portions of records 14.1 and 15.1 withheld under section 19 and the representations of the parties, I find that the withheld portions of records 14.1 and 15.1 are subject to common law solicitor-client communication privilege and exemption under section 19.

[61] The appellant's representations do not specifically address the section 19 exemption.

[62] As the ministry describes, and from my review, records 14.1 and 15.1 are decision notes seeking approval from the Deputy Minister. Without revealing their substance, I find that the portions the ministry withheld under section 19 contain legal advice from the ministry's legal counsel to the Deputy Minister regarding the recommended options discussed in the decision notes.

[63] The ministry argues, and I accept, that the withheld information is communication of a confidential nature between a lawyer and a client regarding the legal risks attached to a particular government decision. I find the communication took place in confidence and that it constitutes confidential communications between the ministry's legal counsel and the Deputy Minister, made for the purpose of providing legal advice, which is precisely what the section 19 exemption aims to protect. As a result, I am satisfied that disclosure of the portions of records 14.1 and 15.1 that the ministry withheld under section 19 would directly reveal the content of privileged solicitor-client communications.

Exercise of Discretion

[64] As with section 13(1), the section 19 exemption is discretionary, and the ministry must exercise its discretion when deciding to withhold the information under the exemption.

²⁰ *Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).

²¹ *Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.); *Canada (Ministry of Public Safety and Emergency Preparedness) v. Canada (Information Commissioner)*, 2013 FCA 104.

²² *General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.); Order MO-2936.

²³ *Kitchener (City) v. Ontario (Information and Privacy Commissioner)*, 2012 ONSC 3496 (Div. Ct.)

[65] The ministry submits that it properly exercised its discretion to withhold the legal advice under section 19. The ministry states that it took into consideration the principle of the public's right of access to government information against the importance of keeping privileged communications confidential. The ministry further states that it considered the competing public interest in upholding the solicitor-client privilege, and thus, not disclosing records that are clearly subject to the privilege.

[66] After considering the representations of the parties and the circumstances of this appeal, I find that the ministry did not err in its exercise of discretion with respect to its decision to deny access to the legal advice in records 14.1 and 15.1 under section 19 of the *Act*. I am satisfied that the ministry considered relevant factors in the exercise of its discretion and did not consider irrelevant ones. In particular, I am satisfied that the ministry weighed and considered any public interest in disclosing the withheld information with the purpose of the section 19 exemption.

[67] Accordingly, I find that the ministry exercised its discretion in an appropriate manner to apply the section 19 exemption to portions of records 14.1 and 15.1, and I uphold it.

ORDER:

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

Original Signed by: _____
Anna Truong
Adjudicator

February 13, 2026 _____