OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

Order F25-60

MINISTRY OF FORESTS

Alexander Corley
Adjudicator

July 31, 2025

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Summary: The Ministry of Forests (Ministry) requested authorization to disregard ten outstanding access requests from the respondent under s. 43 (authorization to disregard access requests) of the *Freedom of Information and Protection of Privacy Act*. The Ministry also sought prospective relief authorizing it to disregard future access requests made by the respondent or others acting on the respondent's behalf and limiting the resources the Ministry was required to commit to responding to such future requests. The adjudicator authorized the Ministry to disregard the outstanding access requests under s. 43(c)(i) because they were excessively broad and responding to them would unreasonably interfere with the Ministry's operations. The adjudicator also found that the outstanding access requests were vexatious under s. 43(a) and authorized the Ministry to disregard future access requests from the respondent over and above two open requests at a time for a period of one year from the date of the order. The adjudicator did not find it appropriate to grant the balance of the prospective relief requested by the Ministry.

Statutes Considered: *Freedom of Information and Protection of Privacy Act* [RSBC 1996, c. 165] at ss. 2, 4, 5, 8, 43(a), and 43(c)(i).

INTRODUCTION

[1] This inquiry decides an application by the Ministry of Forests (Ministry) under s. 43 (authorization to disregard access requests) of the *Freedom of Information and Protection of Privacy Act* (FIPPA)[1] for authorization to disregard ten outstanding access requests made by a specific individual (respondent). The Ministry also seeks, among other things, authorization to disregard future access requests made by the respondent or by others acting on behalf of the respondent for a period of two years from the date of this order, over and above one access request at a time.[2]

[1] RSBC 1996, c 165. In the remainder of this order references to sections of an enactment are references to FIPPA unless otherwise stated.
[2] Ministry's initial submission at para. 5(a-g).

[2] At the time the Ministry made its s. 43 application, the respondent had ten outstanding access requests with the Ministry, one made on December 14, 2024, and the remaining nine all made on January 6, 2025.[3] Each access request seeks the disclosure of all communications between different sets of named Ministry employees across a 25-year span.

[3] Both parties provided written submissions and evidence in this inquiry with the Ministry seeking and obtaining the OIPC's permission to provide some of its affidavit evidence *in camera* (that is, for only the Commissioner, and not the respondent, to see).

Preliminary Issues

Respondent's offer to narrow the scope of the requests

[4] In their submission in this inquiry, the respondent admits that the outstanding access requests fall within the scope of s. 43(c)(i) (excessively broad access requests) because, as originally framed, they are excessively broad and responding to them would unreasonably interfere with the Ministry's operations.[4]

[5] However, the respondent says that the appropriate relief in this inquiry is for me to allow the respondent to revise the access requests to curtail their temporal scope and more specifically set out the actual records the respondent is seeking to access and re-submit the revised requests to the Ministry.

[6] My task in this inquiry is not to negotiate a settlement between the parties or to provide the respondent with a second "kick at the can" regarding their access requests. Rather, my focus is on whether the Ministry has made out its claim that s. 43 authorizes it to disregard the ten outstanding access requests as written and whether, in all the circumstances, any prospective relief is warranted based on the respondent's conduct.[5] Therefore, I will not further consider the respondent's suggestion that allowing them to revise and re-submit the outstanding access requests would appropriately resolve the Ministry's application.

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[3] Ministry file nos. FOR-2024-42844, FOR-2025-50021, FOR-2025-50023, FOR-2025-50025, FOR-2025-50027, FOR-2025-50028, FOR-2025-50029, FOR-2025-50033, FOR-2025-50034, and FOR-2025-50058.
[4] Respondent's submission at pp. 1-12.
[5] See Order F25-39, 2025 BCIPC 47 at para. 7 where the adjudicator took a similar approach.

What issues remain in dispute?

[7] As noted just above, the respondent admits that the ten outstanding access requests come within the scope of s. 43(c)(i). Based on what the parties say in their submissions and my review of those access requests, I agree.

[8] In principle, this is sufficient to resolve the Ministry's s. 43 application in its favour and authorize it to disregard the ten outstanding access requests. However, the Ministry says that I should nonetheless consider whether s. 43(a) (frivolous or vexatious access requests) also applies in this case. The Ministry says I should do so because my analysis and conclusion on that issue will be relevant to deciding whether the prospective relief sought by the Ministry is appropriate in this case.

[9] Given the history between the respondent and the Ministry and the specific relief the Ministry requests, I find it appropriate to consider s. 43(a).[6]

Matters outside the scope of this inquiry

[10] The parties provide a significant amount of background information regarding the relationship and history between them. Some of this information is relevant to the Ministry's application under s. 43(a) so I will consider it below where it is appropriate to do so.

[11] However, I find that other information provided by the parties includes allegations of wrongdoing or misconduct that is not clearly related to the issues before me. Some of the information also raises issues which I find are not within the Commissioner's jurisdiction to resolve under FIPPA. Therefore, while I have read everything placed before me by the parties I will only refer to those materials where they are directly relevant to the matters I must decide in this inquiry and will not wade into any other, non-FIPPA, disputes between the respondent and the Ministry or third parties.

ISSUES

[12] The issues to be decided in this inquiry are:

1. Are the ten outstanding access requests vexatious under s. 43(a)?
2. If so, then what relief, if any, is appropriate?

[13] Prior orders have established that the Ministry, as the public body seeking relief under s. 43, bears the burden of showing the section properly applies and I take that same approach here.[7]

[6] See Order F23-61, 2023 BCIPC 71 at para. 47 where the adjudicator took a similar approach.
[7] See, for example, Order F19-44, 2019 BCIPC 50 at para. 4.

DISCUSSION

Background and content of the access requests

[14] The respondent owns a parcel of land in rural British Columbia which is not serviced by the provincial highway system. Historically, the respondent and their neighbours accessed their properties via a specific network of recreational forest trails (trails). The Ministry previously maintained the trails for public use. At some point, the Ministry decided to discontinue such maintenance. This decision led to anxiety among the respondent and their neighbours about continued access to their properties as the aging trail infrastructure loses viability over time.

[15] This situation has led to numerous communications and confrontations between the respondent (acting on their own behalf and on behalf of their broader community) and the Ministry and its representatives.

[16] The ten outstanding access requests each broadly follow the same format with the respondent requesting the following records within the date range January 1, 2000, to either December 14, 2024, or January 5, 2025:

> All communications between [named individual], and [named individual], including emails, all messages sent through electronic applications, text messages, notes of phone conversations or conference calls, and meeting notes and including Registered Professional Foresters required diary logbook.

[17] In total, 12 distinct individuals are named in the access requests with nine individuals' names appearing once, two individuals' names appearing twice, and one individual's name appearing seven times. Each person named in the access requests either is, or has previously been, employed by the Ministry.[8]

SECTION 43 – AUTHORIZATION TO DISREGARD ACCESS REQUESTS

[18] Section 43 allows the Commissioner to limit an individual's right of access to information under FIPPA by authorizing a public body to disregard access requests. The relevant provision of s. 43 reads as follows

> **43** If the head of a public body asks, the commissioner may authorize the public body to disregard a request under section 5 or 29, including because
>
> (a) The request is frivolous or vexatious[.]

[19] Under s. 43 a public body may not disregard an access request of its own volition. Rather, it must obtain authorization from the Commissioner to do so.

[8] Affidavit #1 of the Ministry's Regional Executive Director (Executive Director) at paras. 5-7.

[20] Previous orders have clearly established that relief under s. 43 will only be granted in exceptional cases and after a careful consideration of the circumstances.[9] The reason that exercising the power granted in s. 43 is an exceptional remedy is because doing so restricts the public's right to access information under FIPPA. That right is clearly and unequivocally granted by s. 4 and is central to the purposes of FIPPA as set out in s. 2. Therefore, the Commissioner does not restrict it lightly.

[21] However, s. 43 is an important tool at the Commissioner's disposal to guard against abuses of the right of access.[10] Specifically, s. 43 recognizes that when an individual overburdens a public body and its resources, this can interfere with the ability of other members of society to exercise their own access rights under FIPPA.[11] Therefore, there can clearly be situations where imposing restrictions on one individual's right of access is necessary to further FIPPA's aims and purposes more broadly.

Section 43(a) – vexatious access requests

[22] The Ministry does not submit that the outstanding access requests are frivolous and instead focuses its submissions on what it characterizes as the vexatious nature of those access requests and the respondent's broader conduct. Therefore, I will only consider whether the outstanding access requests meet the standard of "vexatiousness" established by prior orders and the courts.

[23] A vexatious access request is an access request that has been made in bad faith, for an improper purpose (such as criticizing a public body or expressing displeasure with its prior decisions or actions), or to harass a public body or its employees or impede or obstruct a public body's proper execution of its responsibilities.[12]

[24] Generally, an access request will be vexatious if the access applicant had an ulterior motive in making the request, disconnected from or over and above any legitimate desire to access the requested information for reasonable purposes. A request may still be vexatious even if the applicant has some legitimate residual interest in accessing the requested information. On the other hand, a request that is partially motivated by discontent with a public body is not automatically vexatious solely on that basis.[13]

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[9] See Order F22-08, 2022 BCIPC 8 at para. 29.
[10] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 [*Crocker*] at para. 33.
[11] See Auth (s. 43) 99-01. Available at https://www.oipc.bc.ca/decisions/170 at pp. 7-8.
[12] Order F22-08, *supra* note 9 at para. 83 and the authorities cited therein.
[13] See, for example, *ibid* at para. 99.

Positions of the parties – vexatiousness

Ministry's initial submission

[25] The Ministry says the outstanding access requests were made in bad faith for the purpose of harassing and obstructing the Ministry and its employees and are clearly repetitive and duplicative of one another. On this basis, the Ministry submits that the outstanding access requests are an abuse of the respondent's rights under FIPPA and are clearly vexatious.[14]

[26] Turning to the relevant law, the Ministry says that in addition to the principles I set out above, my analysis of whether the requests are vexatious should be guided by decisions of the British Columbia courts dealing with vexatious conduct in the context of civil litigation.[15] The Ministry says the courts have established that the determination of what amounts to vexatious conduct in a given case is,

> a. an objective assessment;[16]
> b. concerned with whether the respondent has taken themselves "over the line" and "the time has come to stop";[17]
> c. based on both the respondent's conduct during the matter at hand and the respondent's entire litigation history and conduct before other tribunals;[18] and
> d. alive to the respondent's conduct toward other individuals involved in proceedings related to the respondent – including any improper conduct such as threats, baseless accusations, harassment, or defamatory statements.[19]

[27] Turning to the outstanding access requests themselves, the Ministry says, first, that the fact the requests are for "all communications" between Ministry employees across many years lends credence to its submission that the requests are vexatious.

[28] Further, the Ministry provides evidence that it says establishes the respondent has a history of harassing Ministry employees. For example, by making public accusations that those employees have engaged in "malfeasance

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[14] The Ministry cites Order F19-44, *supra* note 7 at para. 12 for the notion that "repetitiveness" is an indicator of vexatiousness.
[15] The Ministry says I should also consider other principles which recur in the relevant case law but which I find are either only relevant in the civil litigation context or are, broadly, repetitious of the principles developed by the OIPC under s. 43(a): see *Re Lang Michener and Fabian*, 1987 CanLII 172 (ON SC) which is referenced with approval in *Dawson v. Dawson*, 2014 BCCA 44 [*Dawson*] and *Universe v. Forslund*, 2021 BCSC 812 [*Universe* (BCSC)], aff'd 2022 BCCA 202.
[16] Citing *Rose v. Canada (RCMP)*, 2009 BCSC 1750 at paras. 27 and 30.
[17] Citing *Lindsay v. Canada (AG)*, 2005 BCCA 594 at para. 26, among others.
[18] Citing *Universe* (BCSC), *supra* note 15 at paras. 91 and 96.
[19] Citing *Dawson*, *supra* note 15 at paras. 23-26 and *Semenoff Estate v. Semenoff*, 2017 BCCA 17.

of public office," been fired by the public service, or misappropriated public funds.[20]

[29] To support this portion of its application, the Ministry relies in part on its *in camera* evidence. This evidence, it says, establishes that Ministry employees have been negatively impacted by the respondent's past behaviour, suffering significant stress and embarrassment on account of it.[21]

[30] The Ministry also points to the legal history between the Province and the respondent regarding the dispute over trail maintenance and other matters concerning the respondent and their property. The Ministry specifically refers to prior court challenges and complaints to the provincial Ombudsperson and Forest Practices Board the respondent has filed against the Province.[22] The Ministry says that in each of these proceedings the Province was found to have acted appropriately. Further, the Ministry says that in one such proceeding before the BC Supreme Court (BCSC), the judge made specific remarks which cast doubt on the respondent's credibility and reliability as a witness in matters involving the Ministry and its employees.[23]

[31] The Ministry says the existence of this prior legal history between the Province and the respondent lends further credence to its submission that the respondent was acting vexatiously in making the access requests. It says the respondent knows that the access requests are so broad and disruptive that adequately responding to them will overburden the Ministry such that it will be unable to properly carry out its policy objectives.

[32] Finally, the Ministry says the respondent does not have any genuine desire to access the requested information. It says, instead, that the respondent made the outstanding access requests in an attempt to "achieve illegitimately what they cannot achieve legitimately", which I take to mean a reversal of the Ministry's trail maintenance decision.

Respondent's submission

[33] In response to the Ministry's submissions, the respondent sets out their version of the ongoing disputes between them and the Ministry. Specifically, the respondent references prior instances where, they say, seeking information related to the Ministry has "borne fruit" regarding attempts to hold the Ministry and its employees accountable for what the respondent says are improper decisions. The respondent also references, what they say, are instances where others have lodged similar criticism against the Ministry.

[34] The respondent admits to making charged and pointed statements about Ministry employees in the past but characterizes this conduct as merely "using

[20] Affidavit #1 of Executive Director at paras. 39-44.
[21] Affidavit #1 of Affiant A (submitted *in camera*).
[22] Affidavit #1 of Executive Director at paras. 25-31.
[23] Citing *Nelson v. British Columbia (Environment)*, 2020 BCSC 479 [*Nelson*] at paras. 69-71.

unkind words when referring to some local government officials" and says that a restriction of their FIPPA rights is a "profoundly disproportionate response" to their conduct.

[35] The respondent also attaches some affidavit material from a third party which the respondent says further substantiates some of their concerns and legitimizes some of their past behaviour toward certain Ministry employees.[24]

[36] The respondent says they made the outstanding access requests for a legitimate purpose, that being to seek information allowing them to further hold the Ministry accountable for its actions and decisions. Finally, the respondent raises concerns about alleged irregularities in the Ministry's past records management and retention processes. The respondent says it was these concerns that motivated them to frame the access requests broadly as opposed to any desire to obstruct the Ministry's legitimate operations.

Ministry's reply submission

[37] In reply, the Ministry says that the form and content of the respondent's submission further demonstrates the respondent's vexatious motivation in submitting the outstanding access requests. The Ministry says the applicant is clearly dissatisfied with the Ministry's trail maintenance decision and, specifically, with a certain Ministry employee perceived by the respondent to have played a central role in that decision.[25] The Ministry says this demonstrates that the access requests are part of an ongoing pattern where the respondent latches on to certain Ministry representatives and subjects them to harassment in response to decisions by the Ministry which the respondent does not like.

[38] The Ministry says that if the respondent is dissatisfied with the Ministry's funding and resource allocation decisions, they are free to advocate a reconsideration of those decisions through appropriate channels. The Ministry contends that the relief it is seeking under s. 43 would not prevent such advocacy by the respondent but would only limit the respondent's ability to further harass and obstruct the Ministry and its employees.

[39] Finally, the Ministry takes issue with the respondent framing their commentary against Ministry employees as simply "using unkind words" and points out that the allegations the respondent has made against Ministry employees, as set out above, are serious.

[24] Affidavit #1 of GZ, attached to respondent's submission. The respondent also attaches significant additional affidavit material from themselves and a further third party, which I find is generally not relevant to the matters in dispute before me.
[25] This is the same employee who is named most prominently in the outstanding access requests.

Analysis and conclusion – vexatiousness

[40] Based on the Ministry's evidence and submissions, it is clear to me that the outstanding access requests meet the standard for being "vexatious" under s. 43(a).

[41] I accept the additional principles developed by the courts which the Ministry puts forward as appropriate for me to consider. I also find that the Ministry amply demonstrates that there is a history of the respondent being dissatisfied with specific funding and resource allocation decisions made by the Ministry and taking roundabout steps to attempt to have those decisions set aside or express discontent with the Ministry and its employees.

[42] Further, I agree with the Ministry that the respondent's past conduct toward its employees reaches well beyond what one would expect of a member of the public reasonably commenting on a professional whom they find to be disagreeable. Allegations such as malfeasance of office or misappropriation of public funds are serious. I have no trouble concluding that where those allegations are publicly made against an individual, they are likely to cause that individual stress, emotional upset, and professional harm. I accept the Ministry's evidence regarding the impact the respondent's conduct has had on its employees.

[43] I also agree that the scope of the access requests is itself evidence that the applicant was acting vexatiously in submitting those requests to the Ministry. There is no doubt that a request for "all communications" between numerous public employees across decades would generate an abundantly large amount of information only a small portion of which could possibly be of genuine interest to the respondent.[26]

[44] Taking the above together, I find that while the respondent may have a residual genuine interest in some of the information they have requested, the Ministry has established, on a balance of probabilities, that the primary motivation of the outstanding access requests was to obstruct and inconvenience the Ministry.

[45] Finally, while I have read everything the respondent includes in and attaches to their submission, I agree with the Ministry that much of that material is not relevant to the actual matters at issue in this inquiry. I also agree with the Ministry that the respondent's own filings lend credence to the Ministry's position that the respondent is primarily motivated by their discontents and grievances

[26] I have considered the respondent's stated concerns regarding the Ministry's records retention processes and the link between those concerns and the broad scope of the access requests. However, nothing the respondent says in this regard explains their decision to request "all communications" between the named employees as opposed to limiting the requests to communications that could have some bearing on or relation to the respondent's complaints about, or interactions with, the Ministry.

against the Ministry and its employees and not by a genuine desire to access the requested information.[27]

[46] For all these reasons, I find that all ten outstanding access requests at issue in this inquiry are vexatious and come within the scope of s. 43(a).

Remedy – sections 43(a) and (c)(i)

[47] I have found above that the outstanding access requests are vexatious within the meaning of s. 43(a) and that responding to those access requests would unreasonably interfere with the Ministry's operations because they are "excessively broad" within the meaning of s. 43(c)(i). The remaining question is what remedy is appropriate given these findings.

[48] Relief under s. 43 must be proportional to the harm inflicted and must bear in mind the objectives of FIPPA and specifically of s. 43.[28] Relief under s. 43 may come in the form of authorizing a public body to disregard outstanding access requests. Relief under s. 43 may also be prospective in that it authorizes a public body to disregard access requests it may receive from the respondent in the future. As set out above, the purpose of providing relief under s. 43 is to safeguard the access to information system for fair and appropriate use by the public at-large.[29]

[49] Given the parties' agreement that the outstanding access requests come within the scope of s. 43(c)(i) it is clear to me that it is appropriate in this case to authorize the Ministry to disregard them. As such, I will only consider below the parties' submissions about the Ministry's request for additional prospective relief.

Positions of the parties – prospective relief

[50] The Ministry requests significant prospective relief under several headings which I consider in detail below.

[51] The Ministry says the requested relief is necessary in this case because the respondent is likely to continue seeking to abuse the Ministry and its employees and criticize the Ministry's decisions. Given this, the Ministry says, the requested relief will safeguard the Ministry's finite resources against monopolization by the respondent and protect its employees from future harassment. The Ministry acknowledges that the relief it is seeking is broad but says "this is an exceptional case warranting exceptional relief." In closing on this point, the Ministry says that "nothing less [than the requested relief] will

[27] I take note as well of the respondent's prior history of being found to be a non-credible and unreliable witness in a court proceeding against the Province: see *Nelson*, *supra* note 23 at paras. 67-75. I find it is appropriate to take this into account when considering the version of events the respondent puts forward in this inquiry and have done so in my analysis.
[28] Order F23-90, 2023 BCIPC 106 at para. 70, citing Order F22-61, 2022 BCIPC 69 at para. 57.
[29] *Crocker*, *supra* note 10 at paras. 40-41.

effectively address the [respondent's] abuse of FIPPA and its detrimental effects."

[52] The respondent does not address the prospective relief requested by the Ministry beyond submitting that any restriction on their rights under FIPPA is not warranted in this case.

Analysis and conclusion – prospective relief

[53] I will deal with each aspect of the Ministry's requested prospective relief in turn.

Two-year limit on future access requests

[54] The Ministry says I should authorize it to disregard future access requests from the respondent for a period of two years from the date of this order, over and above one open access request at a time.

[55] Where, as here, access requests are found to be part of a history of vexatious conduct by a respondent, an adjudicator will consider whether it is appropriate to limit the number of access requests that respondent may submit to the public body for a period of time.[30] However, the appropriate number of open requests and the time-limit for the restriction must be proportional to the respondent's conduct and the likelihood that the respondent will persist in making vexatious requests in the future.

[56] Here, the Ministry provides ample evidence regarding concerning conduct by the respondent toward the Ministry and its employees. The Ministry has demonstrated that the access requests at issue are themselves vexatious and provides some evidence regarding previous instances where the respondent submitted access requests to the Ministry. However, I find the Ministry's evidence does not establish a pattern of the respondent habitually abusing FIPPA across time.

[57] For instance, I can see that the Ministry provides some evidence regarding two prior access requests by the respondent that generated a significant amount of responsive information (prior requests).[31]

[58] Based on the Ministry's evidence it appears that more than 18 months elapsed between when the respondent received the last of the records at issue in the prior requests and when the respondent submitted the first of the ten outstanding access requests at issue in this inquiry.[32] Given the passage of time between the prior requests and the outstanding requests at issue here, it is not

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[30] See, for example Order F24-65, 2024 BCIPC 75 at para. 43, citing *Crocker*, *ibid*.
[31] Affidavit #1 of Executive Director at paras. 54-56 and Affidavit #1 of Ministry's Engineering Officer at paras. 9-14.
[32] Affidavit #1 of Engineering Officer at para. 10 and note 2 indicate the respondent received those records on May 9, 2023, and it is common ground that the respondent submitted the first of the outstanding access requests to the Ministry on December 14, 2024.

clear to me that the scope or content of the prior requests is relevant to the relief the Ministry is seeking.

[59] Preventing a respondent from accessing information under FIPPA for any period of time and in any manner is a serious restriction on the respondent's rights.[33] Further, I can see that the outstanding access requests at issue here were submitted during a distinct flurry of activity by the respondent and do not seem to form part of a consistent or ongoing history or program of peppering the Ministry with requests for information across time.

[60] Therefore, while I am alive to the Ministry's concerns, and agree that some prospective relief is warranted here, I simply do not see enough of a consistent history of the respondent abusing their access rights across time to find that a two-year limitation to one open access request at a time is appropriate in this case.

[61] In my view, authorizing the Ministry to disregard access requests by the respondent over and above two open access requests at a time for a period of one year from the date of this order is sufficient to guard against potential future abuse of FIPPA by the respondent.

Authority to determine what is an "open" access request

[62] The Ministry says I should authorize it to determine for itself what constitutes an "open" access request.

[63] I do not see that it is necessary to grant this aspect of the relief requested by the Ministry because the meaning of an "open" access request is already clear. Even the Ministry's own submissions acknowledge, correctly, that an "open" access request is a request that has been received by a public body under s. 5 but which the public body has not yet responded to under s. 8.

[64] Given this common and agreed interpretation of the term I do not see, and the Ministry does not explain, why it is necessary that I grant them any discretionary authority on this point. Therefore, I decline to grant this aspect of the requested relief.

[65] However, I do accept that it is appropriate to authorize the Ministry to determine what constitutes a "single" access request by the respondent. For example, nothing in this order should be taken as authorizing the respondent to make a series of requests in a single letter to the Ministry while claiming that the entire letter constitutes a "single" access request.[34]

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[33] *Crocker*, *supra* note 10 at paras. 45 and 50.
[34] See Order F25-47, 2025 BCIPC 55 at para. 77 where the adjudicator took a similar approach.

Restriction on requests made "on behalf of" the respondent

[66] The Ministry says I should authorize it to determine for itself whether an access request by a third party has actually been made "on behalf of" the respondent and to disregard such requests.

[67] Recently, the BCSC raised concerns about the OIPC granting this kind of relief following a finding that a respondent has acted vexatiously under s. 43(a).[35] Specifically, the court took issue with a public body being granted "sole unfettered discretion" to determine whether ostensibly third-party access requests had been made "on behalf of" such a respondent.

[68] The Court referenced two distinct but interrelated concerns which I agree with and adopt here. First is the concern that the legitimate access rights of third parties could be impacted by a public body's determination that a third party's ostensibly arm's-length access requests had actually been made on behalf of another individual and could therefore be ignored by the public body. Second is the concern that if requests by third parties were deemed by the public body to have been made on behalf of another individual they would "count" toward any access request limit imposed on that individual under s. 43.

[69] I find both of these concerns are in play here and weigh strongly against granting this aspect of the relief requested by the Ministry. It is clear to me that there are other individuals over and above the respondent who may have a genuine interest in the matters underlying the access requests and could seek to access information regarding those matters in future. Those individuals should be able to do so unencumbered by the specific relief I am granting the Ministry based on the respondent's conduct. Requests by other individuals should also not be used by the Ministry to further limit the already curtailed access rights which this order places on the respondent over the next year.

[70] If the Ministry has reason to believe that, within the period covered by this order, an access request by a third party has been made in an attempt to circumvent this order, that would clearly be a foundation for the Ministry to seek further relief from the OIPC. However, I do not find it necessary or appropriate in this case to pre-emptively alleviate this concern for the reasons set out above.

Two-year limit on time spent searching for records to ten hours

[71] The Ministry says I should authorize it to limit the time it spends searching for records responsive to the respondent's future access requests to ten hours per request for a period of two years from the date of this order.

[72] Given the breadth of the outstanding access requests, the respondent's agreement that they are "excessively broad" for purposes of s. 43(c)(i), and the scope of the prior access requests by the respondent, I find there is some evidence before me that the Ministry may need significant resources to respond

[35] *Besler v. British Columbia (OIPC)*, 2025 BCSC 662 at para. 102.

to future requests by the respondent. However, I do not see that limiting the amount of time the Ministry is required to spend searching for responsive records is appropriate given my decision, above, that the Ministry is not required to respond to more than two open access requests at a time from the respondent for a period of one year.

[73] I find a restriction on the number of requests the respondent may submit, coupled with the Ministry's ability to bring future requests to the OIPC's attention, if necessary, is a sufficient safeguard against the respondent overusing the Ministry's freedom of information resources. Therefore, I decline to grant this aspect of the relief requested by the Ministry.

Two-year limit on respondent requesting employee-related records

[74] The Ministry says I should authorize it to disregard any future access requests from the respondent that seek records related to individual Ministry employees (as opposed to records related to the Ministry's programs or activities) for a period of two years from the date of this order and allow the Ministry to determine for itself whether an access request falls within this category.

[75] The Ministry does not explain how the respondent simply requesting information related to specific Ministry employees would, on its own, give rise to the kinds of concerns s. 43 is intended to remedy.

[76] I accept the Ministry's submission that where an access applicant targets specific Ministry employees with access requests this can be a burden on those employees as they are required to sift through their own files to collect and organize records responsive to the requests. I also accept that the respondent has a history of singling out and targeting Ministry employees who they feel have acted inappropriately. However, I do not find that it is a foregone conclusion that any future requests by the respondent which seek information concerning Ministry employees will be frivolous, vexatious, or will unreasonably interfere with the Ministry's operations.

[77] Further, I find that the parties' evidence clearly establishes that the respondent has had interactions with Ministry employees during those employees' performance of their employment and professional duties. Therefore, granting this kind of restriction could also have an impact on the respondent's ability to efficiently access their own personal information in the custody or under the control of the Ministry in some cases.

[78] Taking the above together, I find the concerns the Ministry raises in this regard are better dealt with on a case-by-case basis (i.e., by the Ministry making future applications under s. 43 if or when necessary) as opposed to granting the blanket relief requested by the Ministry.

CONCLUSION

[79] For the reasons given above, I make the following authorizations under s. 43 of FIPPA:

1. The Ministry is authorized to disregard all ten of the respondent's outstanding access requests.

2. For a period of one year from the date of this order, the Ministry is authorized to disregard any access request made by the respondent over and above two open access requests at a time. The Ministry is also authorized to determine for itself whether an access request submitted by the respondent constitutes a single request or multiple requests. For clarity, an "open" access request is a request for records made under s. 5, which the Ministry has not yet responded to under s. 8.

July 31, 2025

ORIGINAL SIGNED BY

Alexander Corley, Adjudicator

OIPC File No.: F25-00491