

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-4140

Appeal MA19-00878

Town of Parry Sound

December 20, 2021

**Summary:** This appeal concerns a fee estimate that the Town of Parry Sound (the town) issued in response to a request made under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). The request was for access to records relating to the town's general ledger transactions with individual source journals for six specified fiscal years. The appellant requested that this information be provided in a specific format (PDF file). The town provided an initial fee estimate of \$100, which it subsequently revised to \$3,000, to prepare the records for disclosure under section 45(1)(b) of the *Act*. No fee waiver was sought by the appellant and the sole issue in the appeal is the review of the fee estimate.

In this order, the adjudicator does not uphold the town's revised fee estimate and finds that \$1,463.10 represents a reasonable fee for preparing the records for disclosure under section 45(1)(b) of the *Act*.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 45(1) and 45(1)(b); Ontario Regulation 823, section 6.

**Orders considered:** Order MO-1380.

### OVERVIEW:

[1] This appeal determines the reasonableness of a fee estimate issued by the Town of Parry Sound (the town) in response to a request made under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to:

A PDF copy of the Town of Parry Sound detailed General Ledger transactions with posting of individual source journals for the fiscal years or parts thereof for 2019, 2018, 2017, 2016, 2015, 2014.

[2] In his request, the requester asserted that:

These detailed documents and account totals should agree with the audited financial statements for [the town].

[There] should be sufficient detail to identify individual payments to various suppliers of services or other detailed purchases by [the town].

...

I estimate that this information should not take more than one hour or cost any sum other than the employee time to request this document be generated by the town computer. These are electronic records. There is no cost for this data.

[3] After communicating with the requester to clarify the request, the town responded by providing him with the following fee estimate:

There is a fee of \$7.50 for each ¼ hour [of time]. [We are] estimating the total time for production, review and redaction of records may take several hours and therefore [we] estimate a fee at about \$100.00 for the work, subject to change.

[4] The requester paid the \$100 and the work to prepare the records for disclosure began. The town wrote to the requester, with a sample of two pages from the general ledger transactions for 2014 and explained that,

After obtaining the reports, I've started a review to redact personal information – a sample of the redaction is on the second page. It takes approximately 1 hour to review and redact 100 pages and to date only 200 of the total of 9,754 pages of the [six] years of reports are redacted.

In a previous e-mail I noted that the town's fees for processing of an FOI application [are] \$7.50 for each ¼ hour of time. I had previously provided an estimate of several hours to undertake the work, which I now see is a gross underestimate. I now estimate it will take approximately 100 hours and cost approximately \$3,000 to redact the documents in order to provide them to you.

[5] In an attempt to reduce the fee estimate, the requester and the town corresponded about providing the transactions from the general ledger in an alternative format. The town suggested exporting the general ledger transactions into

spreadsheets, removing personal information from text columns and then "locking"<sup>1</sup> the records and releasing them to the requester.

[6] The town wrote to the requester and provided a revised fee estimate based on producing the records in the alternative format and stated:

You have requested 6 years of GL-2014 to date ... the cost estimate for 6 hours processing time at \$30.00/hour is \$180.00. We require a 50% deposit prior to commencing the work, with the documents e-mailed to you upon final payment thereof.

[7] The requester agreed<sup>2</sup> and the town began the work to prepare the records for disclosure. The town provided a spreadsheet for the 2014 general ledger, with the column that would contain personal information, if any, removed and the file locked.

[8] Upon receipt of the locked spreadsheet with the text column containing personal information removed, the requester informed the town of his view that the materials provided "are not proper disclosure and are not a proper accounting record as requested."

[9] The requester, now the appellant, then appealed the town's fee estimate to the Information and Privacy Commissioner of Ontario (the IPC) and a mediator was appointed to explore the possibility of resolving the appeal. As neither of the town's initial fee estimates included an interim access decision, the town subsequently issued one granting partial access to the records, stating that it would be relying on the mandatory personal privacy exemption in section 14(1) of the *Act* to sever personal information from the records.<sup>3</sup> The town's letter included a second revised fee estimate (the revised fee estimate) of \$3,000 to provide the records in the format requested. The appellant confirmed during mediation that he is not seeking a fee waiver from the town, but that he continues to appeal the town's fee estimate.

[10] As a mediated resolution of the appeal was not achieved, the file was transferred to the adjudication stage, where an adjudicator may conduct an inquiry. The adjudicator originally assigned to the appeal sought and received representations from the town and the appellant, in turn, and then reply representations from the town. The parties' representations were shared in accordance with section 7 of the IPC's *Code of Procedure and Practice Direction Number 7*.

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<sup>1</sup> The town explained that locking the spreadsheet would prevent data entries being altered by subsequent users.

<sup>2</sup> Having already paid \$100 to the town, the requester did not pay a 50% deposit on the revised fee estimate of \$180.

<sup>3</sup> The appellant advised that he was not seeking access to any personal information that may be contained in the responsive records.

[11] The file was then transferred to me to continue the inquiry.<sup>4</sup> In this order, I do not uphold the town's revised fee estimate. Based on my review of the evidence before me and for the reasons that follow, I find that a fee of \$1,463.10 is reasonable for preparing the records for disclosure under section 45(1)(b).

## **DISCUSSION:**

[12] The sole issue to be determined in this appeal is the reasonableness of the town's revised fee estimate.

### **Requirements of a fee estimate**

[13] In accordance with section 45(3) of the *Act*, the town has provided the appellant with a fee estimate for processing his request. A fee estimate is intended to give requesters sufficient information to make an informed decision on whether or not to pay the fee and pursue access.<sup>5</sup> In addition, a fee estimate assists a requester in deciding whether to narrow the scope of a request in order to reduce the fee.<sup>6</sup>

[14] The fee provisions are set out in the *Act* and Regulation 823 (the Regulation). Section 9 of the Regulation requires an institution to include in its fee estimate a detailed breakdown of the fee and a detailed statement as to how the fee was calculated. Fees of \$100 or more can be based on either the actual work done to respond to the request, or a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.<sup>7</sup>

### **Cost of preparing records for disclosure under section 45(1)(b)**

[15] The mandatory fee provisions in the *Act* are found in section 45(1), which provides that:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the cost of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;

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<sup>4</sup> I have reviewed the complete file material, including the representations of the parties, and have concluded that I do not need any further information before rendering a decision.

<sup>5</sup> Orders P-91, MO-1367, MO-1614 and MO-1699.

<sup>6</sup> Order MO-1520-I.

<sup>7</sup> Order MO-1699.

(d) shipping costs; and

(e) any other costs incurred in responding to a request for access to a record.

[16] More specific fee provisions are set out in section 6 of the Regulation,<sup>8</sup> which reads:

6. The following are the fees that shall be charged for the purposes of subsection 45(1) of the *Act* for access to a record:

1. For photocopies and computer printouts, 20 cents per page.
2. For records provided on CD-ROMs, \$10 for each CD-ROM.
3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

### ***The town's representations***

[17] In its representations, the town explains that the fee estimate of \$3,000 is the estimated cost of preparing the records for disclosure pursuant to section 45(1)(b) of the *Act* in the format specifically requested by the appellant: a PDF file of general ledger transactions with posting of the individual source journals. According to the town, individual source journal information in the general ledger identifies the origin of a transaction. The town states that the information in the general ledger appears in the same form as in the source journal, where it is first located, including any personal information. The town explains that these source journals include but are not limited to payroll, cash receipts, cash disbursements, property tax, and court revenues.

[18] The town states that the general ledger transactions can be exported into a spreadsheet to remove the columns where personal information is likely to be found but the appellant's request specifies that the ledgers should agree with the town's audited

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<sup>8</sup> As this appeal does not address a request for the appellant's own personal information, the fee provisions in section 6.1 of the Regulation 823, made under the *Act* are not relevant.

financial statements. It is the town's position that in order to ensure this concordance, the general ledger transactions need to be provided in their entirety. It is this requirement for the entirety of the general ledger transactions, including the individual source journals, that gives rise to the possibility of personal information being displayed in the records. The town states that instances of personal information in the records include, but are not limited to, names attached to amounts of money paid to or received from the town, names associated with addresses and names attached to non-sufficient fund (NSF) cheques.

[19] The PDF file of records identified as responsive to the appellant's request comprises 9,754 pages, representing six years of general ledger transactions with posting of individual source journals for 2014 to 2019.

[20] The town states that it prepared 200 pages of records and that it took approximately two hours to review and sever personal information (i.e. one hour for 100 pages). The town concludes that it will therefore take approximately 97.5 hours to review and redact the 9,754 pages. At \$7.50 per 15 minutes (i.e. \$30.00 per hour), the fee for 9,754 pages was calculated at \$2926.20 and "rounded up to \$3,000" in the revised fee estimate given to the appellant.

[21] In recognition of the large fee, the town states that it attempted to clarify with the appellant whether the scope of the request might be reduced or whether there was some financial information in particular that the appellant was seeking. In addition, the town states that it provided the appellant with a link to the audited financial statements for previous years, which are accessible through its website.

[22] As noted above, the town considered providing the requested records in an alternative format, namely in an Excel spreadsheet with the columns containing personal information removed and the spreadsheet locked to maintain its integrity. It is the town's position that this alternative format was discussed with the appellant and tested by the town. The general ledger transactions for 2014 were provided to the appellant in an Excel spreadsheet with the personal information severed and the remaining data locked. However, the town acknowledges that this alternative format with the exclusion of full columns of information rendered the results of limited use to the appellant.

### ***The appellant's representations***

[23] In his representations, the appellant maintains that he has paid the original fee estimate of \$100 to prepare the records for disclosure and states that the town is acting in bad faith by exaggerating the work that needs to be done to release the records. The appellant asserts that the town's representations were not prepared by an accountant or "competent bookkeeper" and he disputes the process chosen by the town for preparing the records for disclosure.

[24] The appellant disagrees with both the town's position on the identified source journals where personal information is likely to be found and the actions that the town states it needs to take to ensure that personal information is removed from the general ledger transactions. Using the example of source journal postings concerning personal information connected to NSF cheques, the appellant submits that electronic searches could be done for references to "NSF", which he believes would identify and list all the NSF transactions by page and line number in the PDF file. The appellant argues that this alternative electronic method of searching would take less than an hour for each fiscal year and save 90 hours on the town's time estimate for preparing the records.

### ***The town's reply representations***

[25] In its reply representations, the town explains that the original fee estimate was based on the hours of work it was expected to take to "set up and produce electronically the 9,754 pages of records" in the requested PDF file format. The town states that it relied on the advice of staff members who are Chartered Professional Accountants when responding to the appellant's request and reached the revised fee estimate after it became apparent that the amount of work to be done to prepare the records for disclosure in the format specified by the appellant had been "grossly underestimated."

[26] In response to the appellant's suggestion that electronic searches would be a quicker way to identify the information that needs to be severed from the records, the town repeats its submissions regarding the source journal information as it appears in the general ledger and the inadequacy of electronic searches to capture every incidence of personal information. The town's position is that a visual scan of the general ledger transactions is the most efficient and effective method of reviewing and redacting the records to meet its privacy obligations under the *Act* and other legislation.

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

[27] For the reasons set out below, I do not uphold the town's revised fee estimate of \$3,000 to prepare the records for disclosure to the appellant, in the format specified in the request. Rather, I find that a fee of \$1,463.10 is reasonable as I am satisfied that it reflects the work that the town must do and is supported by the evidence before me and the allowable fees under the *Act* and the Regulation.

[28] I have reviewed the parties' representations and the correspondence exchanged between the appellant and the town in which the request for access is clarified, different methods of producing the records explored, and the revised fee estimate and interim access decision are communicated.

[29] I note the town's submission that in preparing the fee estimate and responding to the appellant's request, it relied upon the advice of staff members who are Chartered Professional Accountants on the best means of reviewing and severing records to

remove personal information and the potential for using electronic searches and providing the records in an alternative format. I accept the town's evidence that the fee estimate was based on the time taken to prepare 200 pages of general ledger transactions by severing exempt personal information under section 14(1) of the *Act*.

[30] The town's evidence is that the PDF file of general ledger transactions requested by the appellant for the six fiscal years from 2014 to 2019 inclusive, comprises 9,754 pages. The fee estimate is therefore based on a representative sample of the records and the advice of individuals who are familiar with the type and content of the records.<sup>9</sup>

[31] I have considered the appellant's suggestion that electronic searches for specific search terms within the general ledger or the electronic files created from running "reports" would allow for personal information to be identified by page and line references and then severed. However, I am persuaded by the town's explanation that the approach suggested by the appellant lacks both effectiveness and efficiency required to sever personal information, compared to the visual scanning of the PDF file that it has adopted.

[32] The town states that in order to be effective, identifying the personal information by electronic search would require multiple and varied searches and this would have to be done in the general ledger and in the detail of the transaction postings from the individual source journals. I accept the town's explanation that the visual review is the most effective way to prepare the records for disclosure by finding and severing personal information from the individual source journal entries in order for it to meet its obligations to protect personal privacy under the *Act*.

[33] However, I have considered whether the visual scanning of the PDF file, as distinct from the action of highlighting and redacting personal information to sever it from the record, is a recoverable cost of preparing the records for disclosure permitted under section 45(1)(b). As I explain below, the IPC has previously considered these distinct tasks and found that the reviewing aspect of this work is not recoverable.

[34] In Order MO-1380, former Senior Adjudicator Goodis examined section 45(1)(b) and noted that in some orders the IPC has construed "preparing the record for disclosure" as including severing exempt information from records<sup>10</sup> and in others it has been found that activities such as reviewing records for release cannot be charged under the *Act*.<sup>11</sup> The former senior adjudicator stated:

In my view, charges for identifying and preparing records requiring third party notice, as well as identifying records requiring severing, are also not allowable under the *Act*. These activities are part of an institution's general responsibilities under the *Act* and are not specifically

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<sup>9</sup> MO-1699.

<sup>10</sup> Order M-201.

<sup>11</sup> Orders 4, M-376 and P-1536.



contemplated by the words "preparing a record for disclosure" under section 45(1)(b).

[35] I agree with, and I adopt, the former senior adjudicator's reasons in this appeal. Applying this reasoning, the town's fee estimate includes a fee for work that is not contemplated by the words "preparing a record for disclosure" under section 45(1)(b), namely time spent identifying records that require severance. This is one of the activities specifically highlighted as outside the scope of section 45(1)(b) in Order MO-1380 above. However, the town has provided insufficient information upon which to draw a distinction between the time it will take to review the PDF file and the time to be spent severing personal information.

[36] The town's fee estimate is calculated on the presumption that each of the 9,754 pages will contain personal information to be severed pursuant to section 14(1), prior to disclosure. However, the town's own evidence does not support this presumption.

[37] In fact, as an example of the severances required, the town provided the appellant with the first two pages of the 2014 general ledger transactions in PDF format. These two pages show the incidence of personal information appearing in the source journal postings and the severances that are required. In the sample, personal information appears on one of the two pages. In the circumstances, I find that the two pages from the 2014 general ledger can be taken as a representative sample of the full PDF file and supports a reasonable estimate of there being personal information requiring severance on 50% of the 9,754 pages, or 4,877 pages.

[38] It follows that the town's fee estimate should reflect the work required to sever personal information from 4,877 pages of the PDF file.

[39] The town has calculated its fee for preparing the records using a rate of 200 pages in two hours (or 36 seconds per page). The IPC has generally accepted that it takes two minutes to sever a page that requires multiple severances.<sup>12</sup> In this appeal, therefore, it was open to the town to calculate its fee at a rate of two minutes for each page likely to require severances, in accordance with the rate accepted in past IPC orders. However, some IPC orders have acknowledged and accepted different rates of review charged by institutions.<sup>13</sup> In this appeal, the town's rate of severance at 36 seconds per page, being lower than the presumptively reasonable two minutes per page, resulted in a fee estimate that is lower, on a per-page basis, than it could have been. I accept the town's faster rate as a fee concession and have considered it within my analysis of the reasonableness of the fee estimate.

[40] Applying the rate of 36 seconds per page to the 4,877 pages of the PDF file that I have found will likely require severances, there is an estimated 48.77 hours of work to be done to prepare the records for disclosure to the appellant in the format he has

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<sup>12</sup> Orders MO-1169, PO-1721, PO-1834 and PO-1990.

<sup>13</sup> See, for example, Orders PO-1721, PO-1834 and PO-3855.

specified in his request.

[41] Turning to the allowable fee for the work to be carried out by the town, in its fee estimate, the town has used the rate of \$30 per hour, which is the cost of severing records pursuant to section 45(1)(b) of the *Act* as prescribed in section 6.4 of the Regulation. Applying this rate to the 48.77 hours of work to prepare the PDF file for disclosure results in a fee of \$1,463.10.

[42] It is the appellant's position that the town is acting in bad faith by exaggerating the work to be done to prepare the records for disclosure. However, the fee provisions set out in section 45 are mandatory and institutions are required to charge fees to individuals making requests for information under the *Act*. Section 45 embodies the intention of the Legislature to include a "user-pay" principle in the *Act*. The user-pay principle is founded on the premise that requesters pay the prescribed fees associated with processing a request unless it is fair and equitable that they not do so. The balancing of the user-pay principle against considerations of fairness and equity in requiring a requester to pay the prescribed fees is engaged by the *Act's* provision for fee waiver under section 45(4). The appellant did not seek a fee waiver from the town and therefore this is not an issue to be determined in this case.

[43] Accordingly, for the reasons stated above, I reduce the town's fee estimate to \$1,463.10. The town must credit the appellant for the amount already paid.

**ORDER:**

1. I reduce the town's fee estimate to \$1,463.10.
2. In the event that the appellant decides not to proceed with the request, the town is to repay the appellant the deposit paid.

Original Signed by: \_\_\_\_\_

Katherine Ball  
Adjudicator

December 20, 2021 \_\_\_\_\_