THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

PORT OF SPAIN

Claim No. CV2018-02933

BETWEEN

GABRIEL JACOB

Claimant

AND

THE PETROLEUM COMPANY OF TRINIDAD AND TOBAGO

Defendant

Before the Honourable Mr Justice Ronnie Boodoosingh

Appearances:

Mr Anand Ramlogan SC leading Mr Alvin Pariagsingh and Mr Che Dindial instructed by Mr Robert Abdool-Mitchell for the Claimant

Mr Russell Martineau SC leading Ms Amirah Rahaman instructed by Ms Marcelle Ferdinand for the Defendant

Date: 29 July 2019

JUDGMENT

1. The Claimant, Gabriel Jacob, was a former casual employee of the Defendant, the Petroleum Company of Trinidad and Tobago (Petrotrin). By Fixed Date Claim Form filed on 5 October 2018, the Claimant challenged the decision of Petrotrin to deny him access to "any investigative report based on or arising out of the incident which took place on 21 September 2017." Pursuant to ***section 39*** of the ***Freedom of Information Act Chap. 22:02*** (FOIA), the Claimant sought judicial review of the decision. The Claimant stated that on that day, he and other employees while in the performance of their duties to the Defendant, were exposed to Hydrogen Sulfide Gas.

2. In an Affidavit filed on 14 December 2018 by Alvin Stephenson, former Senior Manager of Human Resources at Petrotrin, he stated at paragraph 7, that the only investigative report into the incident to which the Claimant refers is one dated 12 January 2018, signed by members of the Defendant's investigative team. Furthermore, the report was commissioned for the sole purpose of providing information to the Defendant against litigation. Stephenson further stated that the report included the following remarks:

"This Report shall not be construed as an admission of liability by Petrotirn and is intended to provide information for the purpose of preparing Petrotrin against litigation and for the submission of the Company's Attorneys-at-law to enable them to provide relevant legal advice and conduct any on behalf of Petrotrin that may arise."

3. At paragraph 6 of his affidavit, he therefore denied the request of the Claimant pursuant to ***section 29(1)*** of the FOIA.

4. In an Affidavit filed by Danika Jaikaran on 14 December 2018, attorney-at-law, who worked at Pertrotrin's legal department, she stated at paragraph 4 that "... Petrotrin caused an investigation to be made into the incident so that a report could be prepared for Petrotrin's lawyers to advise it in relation to any legal proceedings which may arise from the incident."

5. In an Affidavit in Reply filed by the Claimant on 3 January 2019, he stated at paragraph 3, that the report referred to by Mr Stephenson and Ms Jaikaran can be redacted to ensure that professional privilege is protected and the report be provided to him. At paragraph 4, he stated that as part of the reason for requesting the report relates to injuries that he received which he is currently receiving treatment but he has not been properly diagnosed.

Issues

6. Whether the investigative report is protected by legal professional privilege.

7. Whether pursuant to section 35 of the FOIA, the report ought nonetheless to be disclosed.

Law

8. **Section 29(1)** of the FOIA provides:

> 29. (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

9. **Section 35** of the FOIA provides:

> Notwithstanding any law to the contrary a public authority shall give access to an exempt document where there is reasonable evidence that significant—
>
> (a) abuse of authority or neglect in the performance of official duty; or
>
> (b) injustice to an individual; or
>
> (c) danger to the health or safety of an individual or of the public; or
>
> (d) unauthorised use of public funds,

has or is likely to have occurred or in the circumstances giving access to the document is justified in the public interest having regard both to any benefit and to any damage that may arise from doing so.

Purpose of the FOIA

10. The Claimant mentioned a number of authorities in his submissions regarding the purpose of the FOIA. Significantly, the case of ***Ashford Sankar v Public Service Commission CV2006-00037/C.A. No. 58 of 2007*** at ***paragraph 34***, provided guidance of the legislation where the Court stated:

> ..., the object of the Act is to make information freely accessible to the public with a view to promoting transparency and accountability in the decision-making of public authorities. It is an important piece of legislation in a post-colonial society in which bureaucrats have historically been reluctant to expose their decisions to the glare of public scrutiny.

11. Additionally, in the case of ***Vishnu Bridgmohan v Teaching Service Commission H.C.A. NO. 1055 OF 2004*** at ***paragraph 6.3***, the Court stated:

> The bias under the FOIA is towards the disclosure of documents. The documents no doubt were previously maintained and considered private, imbedded deep in the bosoms of our public administrators. It is no longer sufficient to therefore simply assert that a document is private and

confidential without more in the face of a FOIA request, as the premise of such an application is that every person has a right to obtain access to an official document as defined by the FOIA subject only to the limitations imposed by the legislation and not otherwise.

12. However, under ***section 29(1)*** of the FOIA a document can be protected under legal professional privilege.

13. In the recent case of **Maharaj v Petrotrin [2019] UKPC 21** Lord Sales noted:

> 45. As regards such a balancing exercise, the Board notes that there is undoubtedly a public interest in preserving the confidentiality of arbitration proceedings, so that they can be effective and the state can have access to private forms of dispute resolution where that may serve the common good. However, the confidentiality requirement in article 30 of the LCIA Arbitration Rules is not absolute and the strength of the public interest in confidentiality is arguably somewhat attenuated in the present case by the facts that it is disclosure of statements by Petrotrin's own employees which is sought and that it may well have been the case that Petrotrin could have required them to provide such information in the course of their employment whether arbitration proceedings were on foot or not. Petrotrin would have had a clear interest in understanding what had happened in relation to the failure of the joint venture for construction of the gas-to-liquid plant quite apart from any arbitration proceedings, including as part of its consideration whether it had any good claim against Mr Jones. Arguably, it is an adventitious feature of the case that Petrotrin happened to have conveniently at hand relevant information from Ms Baptiste and Mr Chan Tack in respect of its claim against Mr Jones, in the form of their witness statements prepared for the LCIA arbitration, thereby making it unnecessary to obtain fresh statements from them for the purposes of the court proceedings against Mr Jones. Also, it is arguable that the force of Petrotrin's contention that witnesses might not be forthcoming in similar circumstances in other cases if disclosure is ordered might be considered to be reduced if Ms Baptiste and Mr Chan Tack had a legal duty to provide Petrotrin with the information in

question. The courts below will have to consider to what extent this means that cases which discount arguments based on the threat to "frankness and candour" on the part of civil servants, as referred to by Jamadar JA at para 46 of his judgment in the *Council for the Construction Industry* case, might provide a relevant analogy in the present case.

> 46. So far as concerns possible benefits for the public interest of disclosure of the Baptiste and Chan Tack statements, the Board considers that it is arguable that they are of significant weight, with a view to securing transparency and accountability in relation to relevant decisions in a number of respects. Without seeking to be in any way exhaustive, the Board refers to the following **possible public interest benefits of disclosure**: (a) to enable the public to understand and, if appropriate, criticise decisions taken by Petrotrin in embarking on the joint venture and in entering into the guarantee which have proved to be so costly to it; (b) to enable the public to be fully informed about those matters and Mr Jones's involvement in them so that they could, if appropriate, criticise or oppose the appointment of Mr Jones to roles within government with a focus on energy matters, such as his appointment as a member of the Cabinet Standing Committee on Energy; and (c) to enable the public to understand, and if appropriate criticise, the decisions to bring the civil claim against Mr Jones in the first place and then to abandon it.

Legal Professional Privilege

14. Both the Claimant and Defendant highlighted the authorities that defined the ambit of legal professional privilege.

15. In the Claimant's submissions at paragraph 61, ***Halsbury's Law of England 5th Edition Volume 65*** at ***paragraph 877*** was cited which defined Legal Professional Privilege as "confidential communications **passing between** a barrister and his professional or lay

client for the purpose of requesting or giving legal advice, such as instructions to counsel or counsel's advice, which are privileged from disclosure."

16. The Defendant cited the ***Annotated Freedom of Information Act New South Wales: history and analysis*** by Anne Cossins (North Ryde, N.S.W.: LBC Information Services, 1997) at ***page 375***, to define legal professional privilege:

> Since the term 'legal professional privilege' is not defined ...., the exemption operates by reference to the common law principle of legal professional privilege which protects a client's communication with its attorney. Such communications are considered to have been made in confidence and the privilege is usually claimed in legal proceedings to prevent disclosure of those communications to an opposing party. The privilege will apply to communications and other material if they were made or brought into existence for the sole purpose of seeking or providing legal advice or for the sole purpose of preparing for, or use in legal proceedings."

17. Importantly, at paragraph 30 of the Defendant's submissions, the point was made that for legal professional privilege to apply, there must be in existence an identifiable legal adviser on the one hand and a client who is the holder of the privilege on the other.

18. The Claimant did not address the point of an identifiable legal adviser. The Defendant, citing the case of ***Alfred Crompton Amusement Machines Ltd. v Customs and Excise***

Commissioners (No. 2) [1972] 2 Q.B. 102 at ***page 129***, indicated that in-house lawyers are similarly regarded as those in practice on their own, and the communication between client and attorney is protected by legal professional privilege. Since the investigative report was produced for advising Petrotrin's in-house attorneys, the Defendant reasoned that the report is protected by legal professional privilege.

19. However, the case of ***Three Rivers District Council v The Governor and Company of the Bank of England (No 5) [2003] EWCA Civ 474*** makes clear that not all employees of the company are to be treated as the client for the purposes of legal advice privilege.

20. It is also important to recognize the two categories of privilege, legal advice privilege and litigation privilege. In ***Three Rivers District Council (supra)***, the Court discussing the development of the categories of legal professional privilege cited the seminal case of ***Greenough v Gaskell (1833) 1 My & K 98***. In ***Greenough (supra)***, the Court held that communications were privileged and it made no difference whether it was the client or the solicitor who was the defendant and that it did not matter that, at the time, there were no existing or contemplated proceedings. However, in ***re L (A Minor) (Police Investigation: Privilege) [1997] AC 16*** the House of Lords decided that litigation privilege is essentially a creature of adversarial proceedings and thus cannot exist in the context of non-adversarial proceedings.

21. The Claimant submitted at paragraph 66 of their submissions that the Affidavits did not elaborate or exhibit any evidence with respect to the contemplated litigation that

triggered the preparation of the report. In the affidavit of Stephenson, he only pointed to the remarks of the report as evidence that the report was made to be submitted to Petrotrin's in-house lawyers in contemplation of litigation.

22. In addition to the aforementioned lack of evidence as stated by the Claimant above, there was little evidence as to who requested the report. A letter or a memorandum was not exhibited showing a clear relationship between client and attorney. On the other hand Ms Danika Jaikaran gave evidence that she considered the Report. I accept that as an in-house legal adviser a relationship of client and legal adviser can be forged between the defendant and Ms Jaikaran. However, the evidence is at best thin or more accurately non-existent as to whether this Report was commissioned for the purpose of seeking legal advice or in contemplation of legal proceedings, except the declared say so of the deponents. Further, in addition to the lack of evidence of this, the fact that the Union Representative was a part of the investigative team, and his loyalty is not to the Company but to the Union and the persons it represents, militates strongly against this Report being legally privileged.

23. Further, the fact that it was worded to be for that purpose is not determinative of anything. That is an after the fact justification. The facts have to be examined to show that. Otherwise, an inclusion of such a statement on any document could unwittingly or deliberately serve as a device to deny a person access to internal documents of entities.

24. The Claimant submitted the case of ***Caribbean Information Access Limited v The Minister of National Security Civil Appeal No. 170 of 2008*** with respect to ***section 35*** of the FOIA. Paragraph 47 of the judgment read:

> "However, that is not the end of the matter. The section 35 public interest override assessment and analysis must be undertaken by a public authority. It follows a decision that a document is exempt. It was not done by the Respondent in this case. In this failure, the Respondent has not satisfied the requirements of the FOIA before deciding to deny the Appellant access to the documents sought (except for requests five and six, which require clarification)."

25. The Claimant went on to say that a ***section 35*** analysis should have been applied to the document as described in the case of ***Nicholas Cumberbatch v the Minister of National Security CV2014 03041*** at ***paragraph 12***:

> "The decision maker must therefore show, by the reasons it advances, that it applied its mind to whether any of the factors in (a) to (d) of section 35 were met or whether "giving access to the document is justified in the public interest having regard both to any benefit and to any damage that may arise from doing so."

26. As per the case of ***Ravi Doodnath Jaipaul v The Public Service Commission and The Ombudsman of Trinidad and Tobago CV 03565 of 2007/ Civil Appeal No 162 of 2011***

at ***paragraphs 23 -24*** and ***28-29***, a public authority is obliged to perform a section 35 analysis.

27. The Defendant addressed the issue of a ***section 35*** analysis by citing the case of ***Al Rawi v Security Service [2010]4 All ER 559*** which stated that there was no fundamental right of a litigant to disclosure. In that case, the Appellant was pursuing a civil claim for damages but the respondent argued that certain documentary material should be available only under a closed material procedure. The Court discussed the process of the procedure which is defined as:

> A procedure in which: (a) a party is permitted (i) to comply with his obligations for disclosure of documents, and (ii) to rely on pleadings and/or written evidence and/or oral evidence without disclosing such material to other parties if and to the extent that disclosure to them would be contrary to the public interest (such withheld material being known as "closed material"); and (b) disclosure of such closed material is made to special advocates and, where appropriate, the court; and (c) the court must ensure that such closed material is not disclosed to any other parties or to any other person, save where it is satisfied that such disclosure would not be contrary to the public interest.

For the purposes of this definition, disclosure is contrary to the public interest if it is made contrary to the interests of national security, the international

relations of the United Kingdom, the detection and prevention of crime, or in any other circumstances where disclosure is likely to harm the public interest.'

28. Furthermore, the Defendant reasoned that a ***section 35*** analysis did not fall within the ambit of the Act as firstly, there was no reasonable evidence of abuse of authority or neglect of duty by Petrotrin. Second, since Petrotrin is no longer in operation, the concern of the Claimant of having to know what the investigations revealed is no longer relevant. Third, that if one of the reasons to acquire the report is to identify the gas emitted at the incident, the Claimant already knows that the gas is Hydrogen Sulfide. Fourth, that it was not necessary for Petrotrin to disclose to the Claimant the purpose of its investigations or the report. Finally, a ***section 35*** analysis was conducted by the Defendant and it came to the conclusion that because the report was for the sole purpose of giving legal advice it was not in the public interest to give the Claimant access to the document.

29. The Claimant stated however, that the Petrotrin's closure warrants the disclosure of the report as no harm could come to the company as stated in the case of ***Stephen Bissessar v the Petroleum Company of Trinidad and Tobago CV2017-03718*** at ***paragraph 63***. Since the Claimant's condition has not been diagnosed, the report will assist in his medical treatment. The Claimant also added that the representatives of the Oilfield Worker's Trade Union were part of the investigative team and it is unlikely that this report was solely for providing legal advice.

30. With respect to the provision of ***section 35(a)*** of the FOIA, the Claimant stated that no evidence was submitted by the Defendant that the danger to the public's health and safety or that of the Claimant were given any consideration.

31. Importantly, the Claimant stated that the Defendant did not consider whether a redacted version of the report could be submitted. The Claimant also considered that an edited version of the report could be disclosed as per ***section 16*** of the FOIA.

32. At this stage the court is required to reconsider the ***section 35*** exercise.

Observations and Findings

33. The closure of Petrotrin to my mind has to be irrelevant to any non-disclosure of the information. That cannot affect any right that the claimant may have to information. There must be some continuation of certain responsibilities to deal with matters arising from the operations of the company. The critical matter is that the claimant and others were injured. There was an investigation into the incident. No litigation had been commenced against Petrotrin at the time of the incident. Taken to its logical conclusion, if any report of an investigation can be excluded from the operations of the FOIA by simply stating the report is generated for the purpose of obtaining legal advice, then no investigative report would be disclosable. I find highly suspicious the suggestion in the absence of supporting documentation that this report was done for the purpose of obtaining legal advice. Surely the purpose of the investigative report must have been done to find out the causes of the incident so that safety measures

could be evaluated and remedial measures put forward. It must have been intended to get to the truth, wherever the chips may have fallen. This is quite a different situation from one where litigation is clearly in the air and a specific report to evaluate the chances of liability in that claim may be forthcoming. The fact that the Trade Union was involved in this process suggests that this could not be generated for the purpose of obtaining legal advice but rather must have been geared to a process of evaluating the reasons for the incident.

34. Further there is no evidence that any consideration was given by Petrotrin to the health and safety matter as set out in section 35 (c) of the Act

35. The mere statement in the Report that it is prepared for litigation advice is not determinative. The court must look to the true purpose of the document as shown by the evidence. There has been a lack of candour by the defendant on the circumstances that led to the report being commissioned. Is this Report a necessary part of its operations when an incident such as happened took place? How did this evaluation of the need for advice come about? What instructions were given? Who commissioned the report? Had there been a pre-action letter? How do they explain the involvement of the Trade Union representative in the Report? Did the company have information that litigation was likely having regard to the circumstances of the incident? What was done with the report after? Was legal advice actually given? When was this done and in what circumstances? Was the claimant and other workers interviewed during the preparation of the report? This latter factor would suggest it could not be for the purpose of getting litigation advice.

36. The absence of answers on these matters by Petrotrin threw substantial doubt on whether the Report was for legal advice as claimed and the consequent protection from disclosure by legal professional privilege.

37. There is a distinction between a document on which legal advice has been sought or obtained and one which has been generated specifically for the purpose of obtaining legal advice. The former is not protected from disclosure whereas the latter may be. The evidence points clearly to the document in question being in the former category.

38. Notwithstanding this, I am proceeding on the basis that the document was protected by legal professional privilege and will go on to consider the defendant's evidence regarding the section 35 assessment as to whether privilege ought to have been waived in the circumstances and whether disclosure is appropriate.

39. Mr Stephenson said he considered section 35 and concluded that the balancing exercise he conducted lay in favour of denying the disclosure of the report. The first matter he raised was that non-disclosure promotes the benefits of legal professional privilege. There is no gainsaying that legal professional privilege is a fundamental pillar of the administration of justice. Cases were cited by both sides on how important this principle is to ensure that a party can get full and proper legal advice. It promotes full and frank disclosure among the client and lawyer. The second reason he noted is that "legal professional privilege is a fundamental right to which the Defendant is entitled and it prevails over any public interest in securing relevant and

admissible evidence". This seems more or less a repetition of the first point which is a recognition of the importance of legal professional privilege. This is the only substantive reason being advanced. For example, he did not say it was necessary to protect some confidential source or that it places someone at risk or in danger. Legal professional privilege is a reason for exempting. The real question is notwithstanding legal professional privilege, whether the document should be nevertheless be disclosed.

40. Further, as the cases show, privilege can always be waived. It is there for the protection of the client. But it does not override the need to consider whether notwithstanding the privilege the document should be disclosed.

41. Further, as also noted in the freedom of information cases, there is no requirement for an applicant to say why he needs the information but the court would be entitled to consider what is advanced in determining if the public interest favours disclosure.

42. I am persuaded that the public interest strongly favours disclosure for the reasons set out below. The claimant was injured. He has had to live with the consequences of what took place. Quite apart from any right he may have to bring a claim he ought to know what the only investigation done in the matter revealed. This may at very least be so that he knows. There may be important bits of information that could be of relevance to his medical advisers. Second, others were injured. They too ought to know what an investigation of the company they worked for revealed. Third, the defendant was a State owned company supported with public funds. The public has

a right to information about the safety and health practices of the company as may be reflected in the report. Fourth, the members of the wider community where the Rig was located may have a legitimate interest in knowing what occurred. This was an escape of a toxic gas into the environment. Toxic gas travels. There may be persons in the community who were affected or who may be interested to know what took place in their community. The protection of the environment is a strong public interest factor which favours disclosure to which every member of the public has a legitimate interest in. There is a strong public interest factor that polluters of the environment should be held accountable and the public ought to have information readily accessible to them on what occurred, causes and effects. Fifth, the public may have a legitimate interest in knowing how a public company operated. Disclosure promotes accountability and transparency. This is moreso relevant as the company has now closed. It could be relevant to evaluating how the company conducted itself during its operations. Sixth, they may be interested to know that any successor companies could learn from any investigation of an incident like this. If recommendations were made, then this could be of assistance in the future. Further, the team comprised a workover toolpusher, a health and safety specialist and a Union representative. The report has therefore already been disclosed, through the Union representative to the Union, since presumably as the Union representative Mr Quincy Britton owed a duty to his Union and its members to report on the findings insofar it may have affected workers.

43. It also seems odd that the defendant would stand on legal professional privilege on a matter that impacted on health and safety. If the consequence is to show they are

liable to employees or members of the community then this cannot be seen to be illegitimate for a State company.

44. I have also considered what the claimant set out in his reply affidavit of 3 January 2019. He said he was told he had to attend an interview at the Safety Office. There were 4 persons there. He was told he was participating in an investigation by the company in accordance with its standard operating policy and procedure so it could determine how the accident happened to ensure preventative measures could be taken in the future and to prevent reoccurrence and to assist the affected workers in terms of their medical treatment. He co-operated and subjected himself to interviews. He was not informed the interviews were for the purpose of obtaining legal advice otherwise he would have consulted his lawyer to protect his interest. He accordingly acted in good faith to ensure safety was promoted.

45. The defendant led no evidence about the process in which the Report was generated. The defendant's attorneys have submitted that it was unnecessary for him to be told the reason for the investigation and that any report would be for the purpose of legal advice. This is a significant factor to be weighed as well. The claimant was asked to take part in the investigation on particular premise. Why should he then be denied the fruits of that investigation? It seems to me that the company was not entitled to act with apparent stealth in seeking to get information from the claimant for the purpose of seeking legal advice in relation to potential claims which could be brought by him without first informing him the critical purpose of the investigation was to obtain legal advice. This smacks of bad faith. If a report is being generated for the

purpose of legal advice, and an employee is affected and is asked to participate by giving information, decent corporate practice would suggest that he be told that the Report is to be used for the purposes of obtaining legal advice especially since it may relate to a claim that he himself might bring. In such circumstances the denial of a copy of the Investigation Report is all the more unjustified.

46. The disclosure also does not prevent or hinder the defendant from obtaining legal advice in any way.

47. Even if litigation is to follow, the court would be entitled to consider whatever expert evidence is available. This being the only substantial investigation done it would be highly relevant to determining a claim. There is unlikely with the closure of the defendant to be any further investigation that could be done. Thus it is in the interests of all parties who were affected to have the Report to consider what occurred.

48. Litigation now is conducted with cards face up as we move towards a less adversarial justice system with the different mechanisms under the Civil Proceedings Rules, 1998 to deal with cases justly. Its contents may even signal to the claimant here that the incident was unavoidable and not the consequence of any default of the defendant. That, in itself, may dissuade him from embarking on litigation if he wagers his chances of success are limited. To that extent as well it is in the public interest that claims which may not succeed are not brought to clog up the court system.

49. Notwithstanding the obviously strong weight that legal professional privilege carries in my view there are numerous factors which outweigh this consideration in the circumstances presented here.

50. It is clear to me that a proper and fair section 35 evaluation was not conducted based on the paucity of evidence from Mr Stephenson. He essentially considered one factor, and ignored very compelling countervailing considerations. The balance in my view heavily favoured disclosure.

51. There was an application filed by the claimant on 9 April 2019 seeking to attach two exhibits, which the defendant had disclosed, to the original affidavits filed in support of this application. These were a Procedure Bulletin and an Initial Incident Report. The application noted that the documents were omitted in error and this was an attempt to correct the error. The application was opposed. I did not consider these documents were relevant to the determination of the claim. The omission was therefore not of any significance and I did not think it necessary in the circumstances to grant the application. If I had considered they were relevant, I would have granted the application and allowed the parties to further submit on how they should be treated since there would have been no good reason to deliberately omit these documents and I accepted they were omitted in error.

Order

52. The denial of the claimant of the document requested at No. VI of his request made on 13 March 2018 namely any Investigative Report based on and arising out of an incident which took place on 21 September 2017 regarding Gabriel Jacob (Employee Number 132026) was unlawful as being contrary to the Freedom of Information Act.

53. The decision of the defendant to refuse the claimant the Investigative Report requested contained in its letter dated 15 May 2018 is quashed.

54. The Defendant is to provide the Claimant with a copy of any Investigative Report based on and arising out of an incident which took place on 21 September 2017 regarding Gabriel Jacob (Employee Number 132026) within 10 days of this order.

55. The Defendant is to pay the claimant his costs to be assessed by a Registrar in default of agreement. Given that both sides were represented by Senior Counsel and the apparent importance the defendant appeared to place to resisting the application, I certify this matter as one for Senior Counsel and one junior Counsel and one instructing attorney.

56. Finally, I would note that there has been significant litigation in recent times regarding freedom of information requests resulting in numerous judgments, including decisions of the Privy Council. Public authorities would do well to become familiar with the case law and particularly note that principles of accountability, good

governance and transparency lean heavily in favour of disclosure except where there are strong and compelling reasons for not disclosing information. In turn, more accountability, good governance and greater transparency ultimately result in a more just and equal society.

Ronnie Boodoosingh

Judge