

## 4. SECTION 48<sup>1</sup> OF THE OIA

On some occasions in the past, agencies have been reluctant to make official information available due to fears that release of the information could expose the agency to litigation.

However, release of information in good faith under the OIA will not expose an agency to civil or criminal proceedings. Section 48 of the OIA states:

*“Protection against certain civil actions:*

*Where any official information is made available in good faith – no proceedings, civil or criminal, shall lie against the Crown or any other person in respect of the making available of that information or for any consequences that follow...”*

So long as an agency has made reasonable efforts to identify the interests requiring protection and the considerations favouring disclosure of the information in the public interest and has considered those interests in good faith, no civil or criminal proceedings will lie against the agency for making the information available or for any consequences arising from making the information available. For example, this section effectively protects the Crown from any defamation or breach of confidence proceedings in respect of information which is made available in good faith under the Act.

Section 48(1)(b) provides the same protection to the author of any information made available or any person who supplied the information to the agency.<sup>2</sup>

However, section 48(2) makes it clear that such protection would not extend to the publication of the information by the requester or subsequent parties, such as a newspaper.<sup>3</sup>

A discussion of the application of section 48 is contained in the 11<sup>th</sup> *Compendium of Case Notes of the Ombudsmen*.<sup>4</sup>

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<sup>1</sup> Section 41 LGOIMA

<sup>2</sup> Section 41(1)(b) LGOIMA

<sup>3</sup> Section 41(2) LGOIMA

<sup>4</sup> (1998) 157