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CASE SUMMARY: THE REPRESENTATIVE FOR CHILDREN AND YOUTH HAS A BROAD MANDATE AND IS ENTITLED TO INFORMATION GENERALLY RELEVANT TO CHILD WELFARE

Administrative law – Decisions reviewed – Ministry of Attorney General – Freedom of information and protection of privacy – Public body – Access to information – Judicial review – Standard of review – Unreasonableness

British Columbia (Representative for Children and Youth) v. British Columbia (Attorney General), [2019] B.C.J. No. 2108, 2019 BCSC 1888, British Columbia Supreme Court, November 6, 2019, D.W. Thompson J.

The Representative for Children and Youth sought a declaration the Ministry of the Attorney General failed to comply with its statutory duty to disclose information necessary to enable the Representative to exercise her statutory powers or perform her statutory functions or duties.

In this case, the Representative requested disclosure of information regarding the Family Advocate Program, a government-funded legal representation program for children in contested custody and access cases. The Representative sought that information to understand the role of the Family Advocate Program before its closure in 2002, and the decision to close the program, in order for the Representative to prepare an informed report to the Legislative Assembly regarding the state of legal representation for children and youth in British Columbia. The Ministry refused on the basis the Representative had no authority in the area of representation of children in private family law proceedings.

The court found the Representative was entitled to the information sought in order to prepare a report to the Legislative Assembly on a subject within her statutory mandate. In particular, the court held there was nothing in the legislation that supported a restriction on the Representative addressing issues related to the representation of children in proceedings proximate to child protection proceedings, for example, private family law proceedings. In particular, what happens in other types of cases could have a bearing on the workings of the child welfare system, an issue “squarely within the Representative’s mandate to address by way of a special report.”

The court permitted disclosure of the information sought to the Representative, subject to issues of privilege that might arise.

This case was digested by [Joel A. Morris](#), and first published in the LexisNexis® Harper Grey Administrative Law Netletter and the Harper Grey Administrative Law Newsletter. If you would like to discuss this case further, please contact Joel A. Morris at jmorris@harpergrey.com.