

**SASKATCHEWAN
INFORMATION AND PRIVACY COMMISSIONER**

INVESTIGATION REPORT 072/2014

Saskatchewan Telecommunications

Summary: The Complainant contacted this office to inform us of a situation regarding himself and his daughter. SaskTel had used the Complainant's personal information when it set up a pre-authorized payment account (PAP) for his daughter. This resulted in several unauthorized uses and disclosures of the Complainant's personal information. SaskTel violated sections 26(3), 27, 28 and 29 of *The Freedom of Information and Protection of Privacy Act*. The daughter ended up paying the Complainant's telephone bill for two years. The Commissioner recommended enhanced policies and procedures and that SaskTel issue an apology to the Complainant and his daughter.

I BACKGROUND

[1] On June 24, 2014, my office received a letter from the Complainant requesting an investigation into a situation involving himself and Saskatchewan Telecommunications (SaskTel). His daughter had set up a pre-authorized payment account (PAP) for her cellular telephone. As a result, she ended up paying part of her father's SaskTel bill for almost two years. Also in this process, SaskTel disclosed the Complainant's name, account information and amount owing. Further, he alleged that when his daughter tried to fix the problem with SaskTel, it used his personal information inappropriately.

[2] We notified both the Complainant and SaskTel of our intention to undertake an investigation in letters dated July 29, 2014. We received two submissions from SaskTel.

II DISCUSSION OF THE ISSUES

[3] SaskTel qualifies as a government institution pursuant to subsection 2(1)(d)(ii) of *The Freedom of Information and Protection of Privacy Act* (FOIP).

1. Did SaskTel ensure that personal information was accurate and complete?

[4] Subsection 27 of FOIP states:

27 A government institution shall ensure that personal information being used by the government institution for an administrative purpose is as accurate and complete as is reasonably possible.

[5] In February 2012, the Complainant's daughter filled out a SaskTel form to set up a PAP for her cellular account. The form asked for her address and home telephone number which were the same as the Complainant's. The form also contains the daughter's financial institution, transit and bank account numbers.

[6] However, there is a portion of the form that the daughter did not complete which states "By selecting this option, the full amount of your monthly bill will automatically be debited from your account. You will receive notification when the plan goes it to effect." It then gives four options (SaskTel, SaskTel Mobility, SaskEnergy and SaskPower) and asks for the account number corresponding to the choice. SaskTel has indicated that it would not have known what the daughter's intentions were without having completed this portion of the form.

[7] SaskTel has admitted that one of its processing employees filled in the empty portion of the form for the daughter and established the PAP account by using the Complainant's home telephone number, not the daughter's cellular number. As a result, the daughter began paying for the Complainant's wireline account.

[8] In its submission, SaskTel stated that it had reviewed its procedures for processing PAP and it indicates that if a form has not been completed, "it should be sent back to the customer to obtain any missing information."

[9] SaskTel provided my office with a copy of its *Pre-Authorized Payment Plan - Description* document. It states:

The onus is on the customer to provide all and complete information on the authorization form. If CMR determines information is incomplete or wrong, CMR will mail back the authorization form to the SR. The SR will then contact the customer to complete the required information.

[10] SaskTel indicated that the employees who are responsible for setting up PAP accounts were reminded verbally of the above noted policy as a result of this incident.

[11] Within three months, a few attempts had been made to correct the issue. However, SaskTel explained that the wireless system and the wireline system were separate and distinct. In other words, every time the daughter contacted a SaskTel wireless agent there was no way for that employee to see what was happening in another wireline account. Neither the daughter nor the SaskTel agents could figure out what was taking place.

[12] SaskTel provided excerpts from other policies that address the importance of accurate and complete personal information. One of these policies indicated how one would verify personal information with a customer. However, in this situation, it appears these procedures would not have been effective. Further, none of the policies indicated when verification of personal information should occur.

2. Did SaskTel collect personal information directly from the individual?

[13] As a result of SaskTel filling in the blank parts of the Complainant's daughter's PAP form, SaskTel did not collect the personal information directly from the individual as required by subsections 26(1) or 26(3) which state:

26(1) A government institution shall, where reasonably practicable, collect personal information directly from the individual to whom it relates, except where:

...

(3) Subsections (1) and (2) do not apply where compliance with them might result in the collection of inaccurate information or defeat the purpose or prejudice the use for which the information is collected.

[14] None of the subsections 26(1)(a) through (h) would appear to apply in this instance. Further, the collection resulted in inaccurate personal information.

3. Was there an unauthorized use of the Complainant's personal information?

[15] Section 28 of FOIP states the following:

28 No government institution shall use personal information under its control without the consent, given in the prescribed manner, of the individual to whom the information relates, except:

- (a) for the purpose for which the information was obtained or compiled, or for a use that is consistent with that purpose; or
- (b) for a purpose for which the information may be disclosed to the government institution pursuant to subsection 29(2).

[16] The Complainant's account number is his personal information pursuant to subsection 24(1)(d) of FOIP. When SaskTel filled in the missing portions of the daughter's PAP form with the Complainant's account information, it used his personal information. SaskTel has not indicated that it had authority for this use of personal information. Therefore, this qualifies as an unauthorized use of personal information.

[17] In its submission, SaskTel stated: "It would not be unusual for a parent to pay for their son or daughter's account nor would it be unusual for a son or daughter pay for an elderly parent's account. In these cases SaskTel will first obtain the consent of the account holder prior to establishing PAP." Such activity would also involve the unauthorized use of personal information if consent was not received.

[18] My office asked SaskTel if it had a policy or procedure for setting up PAPs for the payment of another individual's accounts in February 2012 or now. SaskTel replied: "Although the process is not in place SaskTel does intend to modify our policy and obtain consent of the account holder in cases where the account will be paid by someone other than person whose name appears on the account. The PAP process itself is an automated secured electronic process between the bank and SaskTel."

- [19] From a privacy perspective, it is troubling that SaskTel would not have a formal procedure to ensure that consent is obtained when individuals make payments on other individuals' accounts.
- [20] Additionally, in this case, while the daughter was trying to rectify the situation in late 2013 and early 2014, SaskTel asked the daughter for the Complainant's name, telephone number and date of birth to distinguish between the Complainant's and the daughter's accounts. These data elements would qualify as the Complainant's personal information pursuant to subsections 24(1)(a), (e) and (k)(i) of FOIP.
- [21] SaskTel had already collected the Complainant's personal information so this action would constitute a use of his personal information.
- [22] SaskTel has indicated that the name and telephone number of the Complainant is published material as it is published in a telephone book and may be disclosed pursuant to subsections 28(b) and 29(2)(p) of FOIP.
- [23] However, the birthdate of the Complainant is not publically available material. Early in this investigation, SaskTel indicated that it relied on subsections 28(b) and 29(2)(t) of FOIP. However, I was not persuaded by its arguments.
- [24] Later, SaskTel indicated it is relying on subsection 29(2)(u) of FOIP which points to subsection 16(c) of the FOIP Regulations which state:

16 For the purposes of clause 29(2)(u) of the Act, personal information may be disclosed:

...

(c) where disclosure may reasonably be expected to assist in the provision of services for the benefit of the individual to whom the information relates;

- [25] SaskTel explained that the use was for the benefit of both the Complainant and his daughter in solving the mystery of the two PAP accounts. I am persuaded that subsection 16(c) of the FOIP Regulations does apply in this situation. However, I note that SaskTel should have a solid understanding of its authority to use personal information before the use occurs, not after.

[26] Although it is not directly relevant in this investigation, our office has been made aware that SaskTel's Terms of Service is not compliant with FOIP. This has been discussed with SaskTel. I expect all government institutions to ensure that their contracts, agreements and similar documents meet the requirements of FOIP.

3. Was there an unauthorized disclosure of the Complainant's personal information?

[27] Section 29 of FOIP states:

29(1) No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 30.

(2) Subject to any other Act or regulation, personal information in the possession or under the control of a government institution may be disclosed:

(a) for the purpose for which the information was obtained or compiled by the government institution or for a use that is consistent with that purpose;

...

(u) as prescribed in the regulations.

[28] As noted, the Complainant's daughter had unintentionally been paying the Complainant's telephone bill for close to two years. In order for this to take place, SaskTel had to communicate with the Complainant's daughter's financial institution in order for the preauthorized payment to occur.

[29] In both its response to the Complainant and its submission, SaskTel acknowledged that the Complainant's name, account number and amount owing were disclosed to the daughter's financial institution each month. These data elements would qualify as personal information pursuant to subsections 24(1)(d), (j) and (k)(i).

[30] My office asked SaskTel what provision of FOIP it relied on to make these disclosures. It stated indicated it had authority to make these disclosures pursuant to subsection 29(2)(a) of FOIP. SaskTel implied that because the daughter had allowed the payments for so long, she must have been satisfied with the situation.

- [31] The disclosure was made only because SaskTel erroneously set up the first PAP with inaccurate and incomplete information. In light of this situation, I cannot conclude that SaskTel can rely on subsection 29(2)(a) of FOIP for this disclosure.
- [32] Further, while the daughter was trying to rectify the situation in late 2013 and early 2014, SaskTel disclosed that the balance of the Complainant's account was \$45. This would be information about the Complainant's liabilities and qualify as personal information pursuant to subsection 24(1)(j) of FOIP.
- [33] Again, SaskTel asserted it was a benefit to both individuals as it was disclosed as part of identifying and fixing the problem. Therefore, SaskTel was relying on subsection 16(c) of the FOIP Regulations. I am unsure how this disclosure was necessary for the removal of the PAP and I disagree.

III FINDINGS

- [34] SaskTel did not ensure that the Complainant's daughter's personal information was complete and accurate.
- [35] SaskTel did not collect the Complainant's daughter's personal information directly from the individual.
- [36] There was an unauthorized use of the Complainant's personal information when SaskTel set up the Complainant's daughter's first PAP account.
- [37] SaskTel disclosed the Complainant's personal information to the Complainant's daughter's financial institution without authority.
- [38] SaskTel disclosed the Complainant's personal information to the Complainant's daughter without authority.

IV RECOMMENDATIONS

- [39] SaskTel issue a written reminder to all SaskTel employees to collect personal information directly from the individual when fields on forms are left blank.
- [40] SaskTel create an effective policy for checking the accuracy of personal information which includes triggers on when such an exercise should be performed.
- [41] SaskTel create policies and procedures, which involves obtaining consent, from individuals who wish to make payments on accounts that are not their own.
- [42] SaskTel create an effective strategy to ensure its employees know when it is appropriate to use and disclose personal information, which includes ensuring its Terms of Reference are compliant with FOIP.
- [43] SaskTel issue an apology to the Complainant and to the Complainant's daughter.

Dated at Regina, in the Province of Saskatchewan, this 9th day of February, 2015.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner