INVESTIGATION REPORT 212-2016

Ministry of Social Services

December 13, 2016

Summary: The Complainant alleged that the Ministry of Social Services over collected her personal information. The Commissioner found that no breach occurred in regards to the collection of the Complainant's personal information. However, the Commissioner recommended that the Ministry reevaluate its consent form for the Social Assistance Program.

I   BACKGROUND

[1]   On August 25, 2016, my office received a complaint that the Ministry of Social Services (the Ministry) had over collected the Complainant's personal information. The Complainant alleged that the Ministry had asked personal questions relating to where funds from the Social Assistance Program (SAP) had been spent. The Complainant felt that the Ministry was not entitled to this information.

[2]   The Complainant had previously brought her concerns forward to the Ministry, but was dissatisfied with the response. On August 30, 2016, my office provided notification to both the Complainant and the Ministry of our intention to undertake an investigation.

III   DISCUSSION OF THE ISSUES

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

[4]   The Complainant is concerned that the Ministry over collected information regarding the following:

   i)   Demanding to know where she shopped for her groceries in order to receive her benefits
   ii) Querying numerous financial institutions to determine if she held any accounts/products with them
   iii) Viewing a business bank account of the Complainant from 2014 at which time she was a vendor receiving payment from the Ministry

[5]   The Complainant was also concerned that the consent form signed by Applicants to the SAP program is extremely vague.

[6]   In its submission, the Ministry advised that *The Social Assistance Act* and *The Social Assistance Regulations* give the Ministry authority to request certain amounts of information from clients.

1. Did the Ministry have the authority to collect the Complainant's personal information?

[7]   The Ministry provided its reasoning for collecting the Complainant's personal information for SAP:

> Along with the application (to the program)[sic], individuals must provide sufficient documentation in order to validate they meet the eligibility criteria for income assistance. Income assistance is considered a program of last resort, so the documentation required is meant to verify there are insufficient funds available for the individual to support themselves with their current means.

[8]   The Ministry advised that during an annual review, the Ministry had requested the Complainant to provide additional bank statements, however she did not do so. The Ministry stated that:

> At the time of application and annual review, the client signs a consent agreeing to the verification of information with third parties. When the client is not forthcoming with information, the next step is to verify information with third parties.

[9] Subsection 29.2(1)(b) of *The Saskatchewan Assistance Act* states:

> 29.2(1) A person who receives program benefits pursuant to an income-tested program shall, in accordance with the program regulations:
>
> …
> (b) provide or authorize the release of any information prescribed in the program regulations on the request of the program manager.

[10] Subsection 26(1)(e)(ii) of FOIP states:

> 26(1) A government institution shall, where reasonably practicable, collect personal information directly from the individual to whom it relates, except where:
>
> …
> (e) the information is collected, and is necessary, for the purpose of:
>
> …
> (ii) verifying the eligibility of an individual who is participating in a program of or receiving a product or service from the Government of Saskatchewan or a government institution.

[11] In order to determine eligibility to SAP, the Ministry must determine, among other things, the Applicant's liquid assets. *The Saskatchewan Assistance Regulations*, subsection 2(1)(o)(ii) defines liquid assets as:

> 2(1) In these regulations:
>
> …
> (o) "liquid asset" includes:
>
> …
> (ii) an amount on deposit in a financial institution;

[12] Subsection 8(3)(c) of *The Saskatchewan Assistance Regulations* provide:

> 8(3) For the purposes of determining if an individual has a budget shortfall, the minister:
>
> …
> (c) shall determine the total of all liquid assets owned by the individual in accordance with section 12;

[13] The Complainant provided a copy of the consent form she had signed on January 21, 2016. The consent form provides:

> "I give consent to the Ministry of Social Services to obtain and verify information or documents required to confirm my eligibility, or the eligibility of family members, for social assistance. I understand such information includes needs, money received from any source, **assets**, marital status (including common-law relationships), and living arrangements of myself or family members."
> [emphasis added]

[14]   Additionally, the consent form provides that the signatory gives consent to:

> "Any Ministry, person or agency having such information or documents to release them upon written or verbal request to employees of the Ministry of Social Services. I understand examples include, but are not restricted to, information or documents from…any bank, credit union or other financial institution…"

[15]   As the Complainant provided her consent regarding the collection of her personal information, and the Ministry did not collect more information than was necessary, I find that the Ministry had the authority and no over-collection occurred.

2.   Is the Ministry's collection of personal information in compliance with best practices of FOIP?

[16]   The Ministry's administration of benefits as part of SAP is a legally authorized activity. The collection of personal information relating to eligibility is necessary to the proper administration of this program, in order to determine the appropriate benefits.

[17]   However, FOIP contains two underlying principles that need to be taken into consideration; data minimization and need-to-know.

[18]   *Data minimization* means that a public body should always collect, use and/or disclose the least amount of personal information necessary for the purpose.

[19]   *Need-to-know* means that only those with a legitimate need-to-know for the purposes of delivering mandated services should have access to personal information.

[20]   In this particular case, the Ministry collected banking information that was necessary to verify eligibility.

[21]   However, having wording such as "include, but are not restricted to" in a consent form widens the scope of access to be larger than sometimes necessary. The broad wording of the consent form could possibly lead to the collection of personal information that is not specifically related to the administration of SAP.   I recommend that the Ministry analyze the types of information generally needed during the application and review process of SAP and more clearly define the types of information being collected and where it will be collected from.

IV   FINDINGS

[22]   I find that no over-collection occurred in the Ministry inquiring where the Complainant shopped for groceries.

[23]   I find that no over-collection occurred in the Ministry in asking for financial institutions to determine if the Complainant held any accounts or products with them.

[24]   I find that the Ministry had the authority to collect the Complainant's personal information in regards to her business bank account.

V   RECOMMENDATION

[25]   I recommend that from time to time the Ministry review the consent form for SAP to ensure that they are following best practices concerning the collection of personal information. If the Ministry has not reviewed their consent form recently, I encourage them to review it with the data minimization principle in mind.

Dated at Regina, in the Province of Saskatchewan, this 13th day of December, 2016.

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