



INVESTIGATION REPORT 215-2015

Ministry of Social Services

February 9, 2016

Summary: The Commissioner received a complaint from an individual who was not satisfied with the outcome of the investigation conducted by the Ministry of Social Services (MSS) into his concern that MSS inappropriately disclosed his personal information to his roommate. Upon investigation, the Commissioner confirmed that a privacy breach had occurred. Further, the Commissioner was satisfied with the efforts taken by MSS to prevent similar breaches from happening in the future.

I BACKGROUND

[1] On September 15, 2015, the Ministry of Social Services (MSS) received a complaint from an individual who was concerned that MSS disclosed his personal information without his consent. MSS conducted an investigation into the complaint and provided its conclusion to the Complainant which was that a privacy breach had occurred. MSS provided the Complainant with an apology letter dated October 23, 2015.

[2] On November 19, 2015, my office received a written complaint from the individual. The individual indicated that an apology was not enough and that he wanted financial compensation. Upon receipt, my office contacted the Complainant and advised him that there were no provisions for financial compensation available under *The Freedom of Information and Protection of Privacy Act* (FOIP). The Complainant requested that my office still look into the matter.

[3] On November 19, 2015, my office provided notification to MSS and the Complainant advising that my office would be undertaking an investigation and requested that MSS provide my office with a copy of its investigation report. The investigation report was received on December 3, 2015.

II DISCUSSION OF THE ISSUES

[4] MSS is a “government institution” as defined in subsection 2(1)(d)(i) of FOIP.

1. Is there “personal information” of the Complainant’s involved in this matter?

[5] Our customary analysis when dealing with a privacy complaint under Part IV of FOIP is to first determine whether there is personal information involved as defined in subsection 24(1) of FOIP.

[6] Subsection 24(1) of FOIP provides a number of examples of the types of information that would qualify as personal information. However, this list is non-exhaustive. According to MSS, the information disclosed related to the Complainant’s furniture and clothing grant through the Income Assistance Program such as name and amount of the grant given. This type of information falls within subsections 24(1)(a), (e), (j) and (k)(i) of FOIP which provides as follows:

24(1) Subject to subsections (1.1) and (2), “**personal information**” means personal information about an identifiable individual that is recorded in any form, and includes:

(a) information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

...

(e) the home or business address, home or business telephone number or fingerprints of the individual;

...

(j) information that describes an individual's finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual;

...

[7] Therefore, there is personal information of the Complainant's involved.

2. Was there "disclosure" of the Complainant's personal information without authority?

[8] The privacy activity at issue in this circumstance is *disclosure* of the Complainant's personal information. *Disclosure* is the sharing of personal information with a separate entity, not a division or branch of the public body in possession or control of that information.

[9] Disclosure occurred in this case when MSS shared the Complainant's personal information with his roommate. This sharing occurred verbally over the telephone and in a follow-up letter addressed to the roommate which outlined the amounts that both the roommate and the Complainant would receive for furniture grants. Subsection 29(1) of FOIP requires that a government institution have the consent of an individual before disclosing his/her personal information. However, a government institution can disclose without consent provided one of the enumerated exceptions applies at subsection 29(2).

[10] In this case, MSS did not have the consent of the Complainant. Therefore, in order to disclose the Complainant's personal information, one of the exceptions enumerated at subsection 29(2) of FOIP would have needed to apply. MSS did not identify any subsections of 29(2) of FOIP that may apply in this case. Therefore, a privacy breach has occurred.

- [11] As noted earlier, MSS acknowledged this already and provided my office with a copy of the apology letter it had sent to the Complainant dated October 23, 2015. The letter includes assurances that MSS will obtain consent from the Complainant going forward.
- [12] With regards to preventative measures, MSS has a number of policies in place that address various privacy issues including consent. One of its policies titled, *Policy 2.0 Consent* is extensive and advises employees that consent must be obtained in writing with the client's signature, date of signature and expiry date. If verbal consent is received, the details must be documented on file.
- [13] With regards to the specific employee involved in this case, the Manager of Service Delivery, Income Assistance spoke with the employee to ensure there was a clear understanding of what policy required with regards to consent. Further, this was discussed with all employees in the income assistance units within the regional office. Consent forms, guidelines and fact sheets were provided to employees.
- [14] MSS has privacy training available for employees. One of its modules is titled, *Practical Privacy*. It is mandatory for all employees to complete it by the end of March 2016. MSS reports that as of January 31, 2016, 66% of its employees have completed this module including the employee involved in this case.
- [15] In conclusion, I am satisfied with how MSS has addressed this privacy breach. In addition, I am satisfied with the preventative measures being taken by MSS to prevent breaches of this kind from occurring in the future.

III FINDING

- [16] I find that a privacy breach occurred in this case.

IV RECOMMENDATION

[17] There are no recommendations to be made at this time as I am satisfied with the efforts made by MSS in these circumstances.

Dated at Regina, in the Province of Saskatchewan, this 9th day of February, 2016.

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