



Office of the
Saskatchewan Information
and Privacy Commissioner

INVESTIGATION REPORT 219-2015

Ministry of Social Services

April 5, 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 her concern that MSS inappropriately disclosed her personal information to individuals at a meeting. 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 had disclosed her personal information in a meeting agenda. 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 November 9, 2015.

[2] On December 2, 2015, my office received a written complaint from the individual requesting that my office investigate the matter.

[3] On December 3, 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 18, 2015.

II DISCUSSION OF THE ISSUES

[4] MSS is a “government institution” as defined in subsection 2(1)(d)(i) of *The Freedom of Information and Protection of Privacy Act* (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. 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.

[6] According to MSS, the information disclosed on the meeting agenda was the Complainant’s name and the fact that there was a Power of Attorney document listed on the agenda associated with the Complainant and her son. This type of information falls within subsections 24(1)(a) 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;

...

(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 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 distributed the agenda to organizations at the meeting that were external to MSS. The agenda included the topic of the Power of Attorney. One of the individuals at the meeting was the Complainant’s husband who identified that the personal information should not have been on the agenda. MSS staff then immediately collected the agendas, tore the item off the bottom and redistributed them. 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. As noted earlier, MSS has acknowledged this and has apologized to the Complainant for the breach.

[11] With regards to preventative measures, MSS has a number of policies in place that address various privacy issues including disclosure. One of its policies titled, *Policy 1.3 Disclosure of Information* advises employees that disclosure must only occur with client consent or within the parameters identified within legislation. The policy gives a number of examples of where personal information can be disclosed to guide employees.

[12] With regards to the specific employee involved in this case, MSS advised that the employee attended privacy training following this privacy breach. MSS also spoke with

the employee to ensure there was a clear understanding of what policy required with regards to disclosure and Power of Attorney documents. Further, MSS advised that it communicated with the employees of the unit involved on how to handle cases where there is a Power of Attorney involved to ensure they understood the roles and rights of the Power of Attorney and the responsibilities of the Ministry. This occurred in October 2015.

[13] 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 March 17, 2016, 91% of its employees have completed this module including the employee involved in this case.

[14] 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.

IV FINDING

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

V RECOMMENDATION

[16] 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 5th day of April, 2016.

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