



INVESTIGATION REPORT 262-2017

Ministry of Social Services

September 26, 2018

Summary:

CBC news articles reported concerns about the use of private email accounts for government business by the Ministry of Social Services (Social Services). The Information and Privacy Commissioner (IPC) notified Social Services that it would be undertaking an investigation and requested its internal investigation report and copies of the emails at issue. Social Services advised it was not able to produce any emails related to this issue as the emails were stored on back-up tapes that were expensive and time-consuming to access. This practice of archiving emails on back-up tapes prevented the IPC from retrieving relevant information to conduct this investigation. The Commissioner recommended that Social Services continue to work with the Provincial Archives of Saskatchewan to develop a records retention schedule that is in compliance with *The Archives and Public Records Management Act*. It was also recommended that Social Services develop and implement a written policy or procedure on its email management practices.

I BACKGROUND

- [1] On October 12, 2017, CBC news articles reported concerns about the use of private email accounts for government business by the Ministry of Social Services (Social Services). Specifically, the alleged use of private email accounts by the former Minister of Social Services and other senior officials.
- [2] On November 8, 2017, my office notified Social Services that the Commissioner would be undertaking an investigation into this matter.

II DISCUSSION OF THE ISSUES

1. Does my office have jurisdiction to conduct this investigation?

[3] Social Services is a government institution pursuant to subsection 2(d)(i) of *The Freedom of Information and Protection of Privacy Act* (FOIP). As such, my office has jurisdiction to conduct this investigation.

2. Did a privacy breach occur?

[4] The CBC articles outlined concerns that an employee of the Minister of Social Services' office, at that time, had provided direction to a former employee to discuss sensitive issues through personal email accounts to avoid freedom of information requests. The articles also report on the use of personal email accounts to discuss plans to avoid the proper procedure when hiring for the position of Assistant Deputy Minister.

[5] In my office's notice to Social Services, my office requested that Social Services undertake an internal investigation and provide my office with a copy of the investigation and the emails at issue.

[6] Social Services indicated there was no clear or direct way to search for or locate a printed record of the emails, if one existed, however it had identified two boxes in the provincial inventory for the specified timeframe. However, a search of these two boxes resulted in no responsive records. Further, Social Services advised that emails, as the official records, were maintained in the Information Technology Division of the Ministry of Central Services on back-up tapes. Social Services advised that the technology needed in order to retrieve these emails and the use of a third party contractor made this both expensive and time-consuming. As such, Social Services was not able to provide my office with any of the relevant records.

[7] This is a problem, as my office is not able to conduct a full investigation into this matter without reviewing the relevant information.

- [8] Additionally, FOIP contains provisions that provide individual's with a right to access records, including their own personal information and a right of correction of their personal information. Any emails archived on these back-up tapes are no longer accessible to citizens to provide them with the ability to exercise these rights.
- [9] Social Services has acknowledged that it is now aware that the use of back-up tapes are only meant to be used for data-recovery purposes, and therefore using back-up tapes for the purposes of archiving the official records is not in compliance with *The Archives and Public Records Management Act* (APRMA). As such, Social Services is currently working with the Provincial Archives of Saskatchewan (Archives) to develop an institution-wide records retention schedule to ensure it is in compliance with APRMA.
- [10] Additionally, Social Services provided my office with the following information about its current email management practices:

Currently each division in the Ministry will maintain the email management of their records.

In February of 2018 the Legislation and Information Management Branch provided Executive Leadership with follow-up briefings on Email communications and records management... it has been recommended that the following be implemented to use and manage email records:

- Regularly delete transitory and non-work related email messages.
- Regularly file emails considered government records (file folders in Outlook Inbox or in G drive).
- Use Distribution Lists and the Reply-All feature sparingly.
- Identify who is responsible for a message – the individual responsible for the message is required to retain the official copy. Other individuals can delete their copies.
- Save the final email string only (i.e. do not save the various versions separately.)

- [11] This is not just an issue faced by Social Services, but an issue government wide. I am encouraged that Social Services has developed these recommendations for its email management practices and that it is working with Archives to develop a records retention schedule to ensure records are archived in an appropriate manner. However, the past

practices of archiving emails to back-up tapes, rather than integrating the emails in their records management system, has resulted in a number of issues for my office and citizens.

[12] I find that Social Service's past practice of archiving emails on back-up tapes has prevented my office from retrieving relevant documentation to conduct this investigation.

III FINDING

[13] I find that Social Service's past practice of archiving emails on back-up tapes has prevented my office from retrieving relevant documentation to conduct this investigation.

IV RECOMMENDATIONS

[14] I recommend that Social Services continue to work with Archives to develop a records retention schedule to ensure compliance with APRMA and records are accessible for the purposes of FOIP.

[15] I recommend that Social Services develop and implement a written policy or procedure based on the recommendations developed for its email management practices.

Dated at Regina, in the Province of Saskatchewan, this 26th day of September, 2018.

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