



INVESTIGATION REPORT 040-2021

Ministry of Social Services

June 8, 2022

Summary: The Ministry of Social Services (Social Services) received a complaint alleging that one of its employees had used the Complainant's personal information inappropriately. Social Services responded to the Complainant stating that no privacy breach had occurred, because it had authority to use the Complainant's personal information pursuant to section 28(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Complainant requested the Commissioner investigate. The Commissioner found that Social Services had authority to use the Complainant's personal information pursuant to section 28(a) of FOIP, but in addition, had the Complainant's consent to do so as well. The Commissioner recommended that Social Services take no further action in this matter.

I BACKGROUND

[1] On January 18, 2021, the Complainant contacted the Ministry of Social Services (Social Services) alleging that it had breached their privacy when an employee in the North Battleford service center location accessed their case file inappropriately. The Complainant also requested information regarding who assigned the task of accessing their case file to the employee.

[2] On February 8, 2021, Social Services responded to the Complainant indicating that the employee was completing their assigned duties; therefore, had authority to access the Complainant's case file and personal information pursuant to section 28(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP). Social Services indicated that no privacy breach had occurred.

[3] On March 12, 2021, the Complainant requested my office investigate the matter.

[4] On March 16, 2021, my office notified Social Services and the Complainant of my office's intention to undertake an investigation. My office requested a copy of Social Services' internal investigation report regarding the matter. My office also invited the Complainant to provide any further details regarding the alleged breach of privacy that they wish to provide.

[5] On May 14, 2021, Social Services provided its internal investigation report to my office. The Complainant did not provide anything further to my office.

II DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[6] Social Services qualifies as a "government institution" pursuant to section 2(1)(d)(i) of FOIP. Therefore, I have jurisdiction to conduct this investigation.

2. Is the Complainant's personal information involved?

[7] In order for FOIP to be engaged in a privacy breach, there must be personal information involved, as defined by section 24(1) of FOIP.

[8] In its internal investigation report to my office, Social Services provided background and explained that the Complainant had initially filed an access to information request with Social Services. Upon review of the responsive record that the Complainant received from Social Services, they noticed two tasks were completed by an employee based in the North Battleford service center. As the Complainant did not live in North Battleford at that time, they did not understand why the employee would access their file.

[9] Social Services further explained that the Complainant was on two different income assistance programs at two separate times:

- Social Assistance Program (SAP) while residing in North Battleford during September 2016 to March 2017; and
- Saskatchewan Income Support (SIS) while residing in Saskatoon during September 2019 to the time of the complaint (early 2021).

[10] In its internal investigation report to my office, Social Services indicated that following the Complainant's privacy concern, it had conducted an audit of their file. The audit indicated that the employee viewed the following two data elements on April 1, 2020 to close the assigned tasks:

- Full Name
- Case number

[11] Social Services did not list the specific sections pursuant to section 24 of FOIP for each data element. However, upon review of the information, my office noted that the data elements listed above would qualify as personal information as defined by sections 24(1)(d) and (k)(i) of FOIP, which provide as follows:

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

...

(d) any identifying number, symbol or other particular assigned to the individual, other than the individual's health services number as defined in *The Health Information Protection Act*;

...

(k) the name of the individual where:

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

...

[12] Therefore, I find that the Complainant's personal information is involved pursuant to sections 24(1)(d) and (k)(i) of FOIP. As such, FOIP is engaged and the privacy rules outlined in Part IV of FOIP will guide this investigation.

3. Did Social Services have authority to use the Complainant's personal information?

[13] Once personal information is established, the next step is to consider which of the three primary privacy activities are engaged, i.e. collection, use and/or disclosure. Next, authority for the privacy activity would need to be established. Where there is no authority established, a privacy breach has occurred.

[14] To "use" means to reference or manipulate personal information by a government institution that has possession or control of the information, but does not include the disclosure to another separate entity ([Review Report 395-2019, 396-2019](#) at para. [14]).

[15] On April 1, 2022, Social Services' employee completed two tasks in MiCase (Social Services' client relationship management tool) and accessed the Complainant's personal information for these tasks. This constituted a use.

[16] In its internal investigation report to my office, Social Services asserted that it had authority to use the Complainant's personal information pursuant to section 28(a) of FOIP.

[17] Section 28(a) of FOIP establishes that a government institution may only use personal information under its control without the consent of the individual if the use is for a purpose for which the information was obtained or compiled or for a use that is consistent with that purpose. Section 28(a) of FOIP provides:

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

...

[18] In its internal investigation report, Social Services explained that Saskatchewan Income Support (SIS) is a new income support program, administered by its Income Assistance

division. As an income support program, it is a financial benefit of last resort. Administered through a new electronic system (MiCase), it allows clients from all over the province to access the program remotely or in person. The program implemented a shared caseload format, which means multiple staff in the Income Assistance division may be assigned tasks related to a client's file. Clients no longer have one worker as a point of contact in the Ministry. This allows clients to receive the quickest service possible as workflow items can be assigned to any staff, regardless of the staff members work location. Information provided by the client (i.e. obtained or compiled by Social Services) is recorded in MiCase. All case management activities occur within this data management system.

- [19] Social Services further explained that individuals can complete their application online, through the Saskatchewan.ca portal or contact the Client Service Center, where a staff member would work through the application with them and document their answers. Consent is collected by Social Services' staff at the end of the application process. The consent document is provided on the website and/or is emailed to the individual at the end of the telephone call.
- [20] To support its case further, Social Services confirmed that the Complainant provided consent on September 20, 2019, with respect to the SIS program eligibility requirements and collection and use of their personal information within Social Services. This was completed via the application portal at the time of the application.
- [21] During this investigation, my office requested Social Services provide a copy of a blank consent form to my office, for review of language on the form and to ensure that individuals could understand what items they were providing consent to Social Services for.
- [22] Upon review of the consent form, my office noted the following:
- This form is named "Client Declaration and Consent";
 - This form lists a separate section named "Client Consent", one of the items in this section states:

... I/we give consent to the Ministry of Social Services to collect, use and disclose information or documents required to confirm my or my family's eligibility and for the purposes of case planning. Such case planning activities may include developing money management skills, accessing services from third parties, obtaining and maintaining utility services... Examples include, but are not restricted to, information or documents from:

- ...
 - Any landlord, past employer and providers of pre-employment services or programs for the time period you are in receipt of Saskatchewan Income Support...
- There is no expiry date on the "Client Declaration and Consent" form.

[23] In its internal investigation report, Social Services also provided a copy of the two tasks that were completed by its employee in the Income Assistance division in the North Battleford office. Upon review of both the tasks, it appears that the first task completed was "review supporting documents – SIS communication" and the second task completed was "Security deposit – security deposit of \$500 issued October 15, 2019. To be recovered at \$50/month."

[24] Again, in its internal investigation report, Social Services confirmed that both task items were completed and closed with respect to the individual plan for the Complainant. Social Services' Privacy Officer also confirmed that they contacted the Manager of the employee, who confirmed that the employee was assigned to the Income Assistance Redesign Team. The Manager confirmed that in such role, the employee was often assigned SIS production work in MiCase, which included updating individualized plans. The Income Assistance Manager reviewed the audit logs and confirmed that both the task items on the Complainant's individualized plan were closed by the employee, as assigned work and that there was no unauthorized access/use of the Complainant's personal information.

[25] Upon review of Social Services' internal investigation report and the two tasks completed by the employee in the North Battleford office, it appears that the Complainant's personal information was obtained or compiled by Social Services to provide them financial assistance from the SIS program. It also appears that on April 1, 2020, the employee used the Complainant's personal information to complete the two tasks which were open/outstanding in the Complainant's file.

[26] Based on the Social Services' internal investigation report, it appears that Social Services took necessary steps to ensure that this employee completed both tasks, as per the direction of their manager to keep the Complainant's file updated.

[27] My office noted that both tasks appear to fall under the items listed above from the "consent form". Therefore, Social Services had the consent of the individual to use their personal information for the purpose of delivering the SIS program. With consent, no additional authority is required under section 28(a) of FOIP.

[28] However, I also find that Social Services used the Complainant's personal information for the purpose consistent with the purpose for which it was originally obtained or compiled (i.e. to provide financial assistance from the SIS program). Therefore, I find Social Services also had authority to use the Complainant's personal information pursuant to section 28(a) of FOIP. I therefore find no privacy breach occurred.

III FINDINGS

[29] I find that the Complainant's personal information is involved pursuant to sections 24(1)(d) and (k)(i) of FOIP.

[30] I find that Social Services had the consent of the Complainant to use their personal information for the purpose of delivering the SIS program.

[31] I find that Social Services also had authority to use the Complainant's personal information pursuant to section 28(a) of FOIP. I therefore find no privacy breach occurred.

IV RECOMMENDATION

[32] I recommend that Social Services take no further action in this matter.

Dated at Regina, in the Province of Saskatchewan, this 8th day of June, 2022.

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