

**SASKATCHEWAN**  
**OFFICE OF THE**  
**INFORMATION AND PRIVACY COMMISSIONER**

**REPORT 2004 -- 002**

**SASKATCHEWAN GOVERNMENT INSURANCE**

**Summary:** The Applicant applied under the *Freedom of Information and Protection of Privacy Act* (the “Act”) for access to personal information related to his insurance claim. The government institution refused access to 5 documents and released the balance of the records. The Commissioner recommended that the burden of proof in respect to three of the documents had not been satisfied by SGI under section 17(1)(b)(i) (consultations and deliberations involving employees of government institution) and that accordingly these documents should be disclosed to the applicant. The Commissioner recommended that the remaining two documents should not be disclosed since the exemption had been properly applied.

**Statutes Cited:** *Freedom of Information and Protection of Privacy Act*, S.S.1990-91, c. F-22.01, s. 17(1)(b)(i)

**Authorities Cited:** Sask OIPC Reports: #2004-001

**I BACKGROUND**

[1] The Applicant filed an Access to Information Request form with Saskatchewan Government Insurance (“SGI” or “the government institution”), wherein he requested information regarding his insurance claim.

[2] SGI replied to this request by letter dated November 6, 2003, as follows:

“...It is my understanding that on October 17, 2003, SGI provided you with copies of your file (YK SK 389781), but withheld 5 documents concerning internal direction and correspondence. In your Access to Information Request Form, you ask that these documents be provided to you.

I have reviewed the documents in question and can advise that they are being withheld because they would disclose consultations and deliberations involving officers or employees of SGI. These records are exempt from disclosure by way of subsection 17(1)(b)(i) of the Act.”

[3] We understand that the Applicant has already received his entire file with the exception of five documents that were being withheld.

[4] The Applicant filed a Request for Review with the Office of the Information and Privacy Commissioner (“OIPC”) dated November 13, 2003. The Applicant indicated in his Request that *“I am going into mediation with SGI and I feel that all information regarding my case is relevant and may be a deciding factor in the outcome of the mediator’s decision.”*

[5] At our request, SGI provided our office with copies of the 5 documents that were denied to the Applicant.

## **II RECORDS AT ISSUE**

[6] One was an undated memorandum from one SGI employee to a senior SGI employee seeking advice on a particular question related to processing the claim in question. A second document is an email dated October 26, 1999 from one SGI employee to another which discussed certain action to be taken by one of those employees with respect to the claim of the Applicant.

[7] There were also three additional documents described as follows:

- (a) Copy of letter from Yorkton Injury Claims to Saskatoon Injury Claims dated October 7, 1999. This appears to report certain factual information with respect to communication with an agent of the Applicant. This also appears to have been a cover letter that accompanied the transfer of a file from SGI office to another. In addition, handwriting appears at the bottom of the document which appears to be a list of certain health symptoms.
- (b) December 12, 2002 email from one SGI employee to another which makes reference to certain other documents but the reference is skeletal and non-substantive.
- (c) November 9, 2002 email from one SGI employee to another which records certain matters of fact relating to dependents of the Applicant.

### **III ISSUE**

Did the government institution properly apply section 17(1)(b)(i) of the *Freedom of Information and Protection of Privacy Act* (“the Act”) to the records withheld?

### **IV DISCUSSION OF THE ISSUE**

[8] SGI takes the position that these five documents are exempt from disclosure pursuant to the provisions of section 17(1)(b)(i) of the Act. The section reads as follows:

17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

- (b) consultations or deliberations involving:
  - (i) officers or employees of a government institution;

- [9] Section 17(1)(b)(i) was recently considered by this Office in Report 2004-001.
- [10] A “consultation” occurs when the views of one or more officers or employees of a government institution are sought as to the appropriateness of a particular proposal or suggested action. (Report 2004-001 [12]) A “deliberation” is a discussion of the reasons for and against an action by the persons described in this section. (Report 2004-001 [12]) The records withheld involve either consultation and deliberation.
- [11] In order to justify withholding a record on a basis of section 17(1)(b)(i), the opinions solicited during a “consultation” or “deliberation” must:
- a) either be sought or expected, or be part of the responsibility of the person from whom they are sought;
  - b) be sought for the purpose of doing something, such as taking an action or making a decision; and
  - c) involve someone who can take or implement the action. (Review 2004-001 [13])
- [12] The two records described in paragraph [6 ] above meet the foregoing criteria. The three records described in paragraph [7] do not meet those criteria.

## **V RECOMMENDATIONS**

- [13] SGI has properly invoked section 17(1)(b)(i) to deny access to the two records described in paragraph [6] above. I recommend that access be denied to those two records.

[14] SGI has not met the burden of proof to justify denying access to the three records described in paragraph [7] above. I recommend that SGI provide the Applicant with access to those three records.

[15] Dated at Regina, in the Province of Saskatchewan, this 2nd day of April, 2004.

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R. GARY DICKSON, Q.C.  
Acting Information and Privacy  
Commissioner for Saskatchewan

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*Postscript: Public bodies need to remember that the FOIP Act does not allow them to insist on a reason as to why an Applicant makes an access request. Access to records is a right guaranteed to Saskatchewan residents and is not conditional on providing a reason or a sufficiently good reason to exercise that right of access. This doesn't prevent an Applicant from volunteering a reason nor does it prevent the reason underlying a request to be discussed between an Applicant and a FOIP Coordinator when the FOIP Coordinator is making reasonable efforts to assist an Applicant.*