

SASKATCHEWAN

**OFFICE OF THE
INFORMATION AND PRIVACY COMMISSIONER**

REVIEW REPORT F-2013-004

Ministry of Labour Relations and Workplace Safety

Summary:

An Applicant made an access to information request to the former Ministry of Advanced Education, Employment and Labour (AEEL) wherein AEEL withheld all the records, citing sections 15(1)(a) and 15(1)(c) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant requested a review by the Saskatchewan Information and Privacy Commissioner (OIPC). A government reorganization resulted in the Ministry of Labour Relations and Workplace Safety (LRWS) assuming responsibility for the file. LRWS decided it would no longer withhold all the records under sections 15(1)(a) and 15(1)(c) of FOIP because the subject of the responsive records was no longer a matter before the courts. However, it sent a fee estimate letter to the Applicant advising the Applicant that it may rely on sections 16, 17, 18, 19 and 29 of FOIP and sections 5, 27 and 30 of *The Health Information Protection Act* (HIPA) to withhold some of the information in question. LRWS argued that a fee estimate letter was not issued originally by AEEL because its response was pursuant to section 7(2)(d) whereas section 9(1) of FOIP only allows a fee estimate letter to be issued with a section 7(2)(a) response. The Commissioner found that there is no provision in FOIP that enables a public body to issue a new section 7 response 31 months after it receives an access request. The OIPC recommended that LRWS rescind the fee estimate letter and sever information pursuant to section 29(1) of FOIP and section 27(1) of HIPA. LRWS complied with the recommendations but then also applied yet another discretionary exemption, section 22 of FOIP, to withhold information. The Commissioner recommended that LRWS release the information it withheld pursuant to section 22 of FOIP.

Statutes Cited: *The Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. F-22.01, ss. 2(1)(d)(i), 7(2)(a), 7(2)(d), 9(1), 15(1)(a), 15(1)(c), 16, 17, 18, 19, 22 and 29; *The Health Information Protection Act*, S.S. 1999, c. H-0.021, ss. 2(t)(i), 5, 27 and 30.

Authorities Cited: Saskatchewan OIPC Review Reports F-2012-006, F-2012-005, F-2012-002, F-2012-001/LA2012-001, F-2010-001, F-2008-001, F-2007-001, F-2006-002, F-2006-004, F-2005-006, F-2004-007, F-2004-005, F-2004-003, LA-2011-004, LA-2011-003 and LA-2007-002; Ontario IPC Order P-1465.

I BACKGROUND

[1] On February 18, 2010, the former Ministry of Advanced Education, Employment and Labour (AEEL) received an access to information request for the following:

OHS records concerning Apr. 18, 2008 natural gas explosion in Nipawin, SK.

[2] On or about March 4, 2010, AEEL's Access Officer responded to the request as follows:

Thank you for your access to information request received in this office on February 18, 2010, (attached). Because the matter is currently being investigated, access to the records relevant to your request is denied, pursuant to sections 15(1)(a) and (c) of *The Freedom of Information and Protection of Privacy Act*.

[3] On March 15, 2010, my office received a Request for Review from the Applicant.

[4] On or about July 14, 2010, my office notified the Applicant and AEEL that it was undertaking a Review pursuant to Part VII of *The Freedom of Information and Protection of Privacy Act* (FOIP).¹ We requested from AEEL a copy of the record and a submission supporting its position in withholding the responsive records under sections 15(1)(a) and 15(1)(c) of FOIP.

¹*The Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. F-22.01.

[5] Due to a government reorganization, my office received a response from the Ministry of Labour Relations and Workplace Safety (LRWS) on August 11, 2010.

[6] My office received a letter dated September 14, 2010 that clarified that LRWS would retain responsibility for this particular file:

...Due to the recent split of the Ministry of Advanced Education, Employment and Labour into two Ministries, I felt this was a good opportunity to inform the OIPC as to which Ministry will be retaining responsibility for the open review and breach files.

...

Open reviews with the Ministry of Labour Relations and Workplace Safety include:
...OIPC 018/2010....

[7] On June 8, 2011, my office sent an email to LRWS stating that we had not yet received a copy of the record or its submission. We asked when we could expect to receive them. LRWS responded by email on June 8, 2011 stating that it had approximately 25 reviews and it was working on the oldest first.

[8] My office received a letter dated August 4, 2011 from LRWS stating the following:

As requested by your office, I reviewed the above record denied in its entirety to the applicant pursuant to subsections 15(1)(a) and (c) of *The Freedom of Information and Protection of Privacy Act* (Act). The Ministry continues to deny access to the records requested as this matter is still before the courts. **Upon the conclusion of this matter, we will revisit this case for release to the applicant.**

[emphasis added]

[9] LRWS, however, did not enclose a copy of the record or a copy of its submission with its August 4, 2011 letter as my office had requested. Rather, LRWS simply restated its position that it was withholding the requested records.

[10] My office wrote a letter dated August 10, 2011 re-requesting the record and the submission from LRWS.

- [11] LRWS responded with a letter dated August 16, 2011 with a copy of the withheld records enclosed. However, the letter did not enclose a copy of its submission.
- [12] My office received an Index of Records enclosed with a letter dated September 22, 2011 from LRWS. We later received a submission in a form of a letter dated December 21, 2011.
- [13] On July 27, 2012, my office requested consent from LRWS to share its submission and the Index of Records with the Applicant.
- [14] On August 17, 2012, LRWS provided its consent to share the submission and the Index of Records with the Applicant.
- [15] On August 21, 2012, my office shared the submission and the Index of Records with the Applicant. The Applicant advised us on September 12, 2012 by telephone that a court decision had been made on the matter. Given that the court proceedings had concluded, she asked whether LRWS would change its position on withholding the records.
- [16] In an email dated September 12, 2012, we asked LRWS to advise if its decision to withhold all the information with the records in their entirety under sections 15(1)(a) and 15(1)(c) of FOIP had changed:

LRWS provided our office with a submission dated December 21, 2011. Since then, the court decision and sentencing decision were made. Therefore, please advise our office if the court and sentencing decisions changes the position of LRWS to withhold all the information within the records in their entirety under sections 15(1)(a) and 15(1)(c) of the FOIP Act. If there are changes and LRWS determines it will release records, please advise us which portions of the records will be disclosed. If LRWS is not changing its position in withhold [sic] the records, please advise me as well. I will then proceed with completing the analysis for this particular file.

- [17] On September 18, 2012, LRWS responded by email stating the following:

Thank you for the below email. Yes, the conclusion of the court case and closing of the appeal window changes LRWS's position on withholding the file in its entirety. We are now proceeding with the request in the post-court decision context. Since

there are a significant number of records, the first step is to provide the applicant with an estimate of processing fees, which is underway.

[18] On September 20, 2012, my office responded in an email:

Thanks for the response and advising that LRWS will be re-considering its position on withholding the file in its entirety. On the topic of issuing the Applicant a fee estimate, I would like to refer you to the Commissioner's Report F-2005-005, available at <http://www.oipc.sk.ca/Reports/F-2005-005.pdf>. It will provide you with the Commissioner's view on how fees should be calculated in accordance with *The Freedom of Information and Protection of Privacy Regulations*.

[19] LRWS issued a fee estimate letter dated September 27, 2012 to the Applicant with a carbon copy to my office. Along with the fee estimate amount, it raised exemptions that "will likely be applied to the records prior to their release..."² It stated that it *may* apply sections 16, 17, 18, 19 and 29 of FOIP and sections 5, 27 and 30 of *The Health Information Protection Act* (HIPA).³

[20] In a letter dated October 12, 2012, my office stated we would not consider the discretionary exemptions raised because there is clear prejudice to the Applicant to raise such exemptions 31 months after the Applicant submitted her access request.

[21] After reviewing the records, my office recommended to LRWS in a letter dated February 26, 2013 that it sever the personal information and personal health information in the responsive records pursuant to section 29(1) of FOIP and section 27(1) of HIPA but to release the remainder of the records. We also recommended that the fee estimate be rescinded.

[22] LRWS sent a letter dated July 12, 2013 to the Applicant stating that its intention was to comply with my office's recommendations.

[23] However, in an email dated August 1, 2013 to my office, LRWS stated that in addition to applying section 29(1) of FOIP and section 27(1) of HIPA, it applied section 22 of FOIP

²LRWS letter dated September 27, 2012 to the Applicant with a carbon copy to OIPC.

³*The Health Information Protection Act*, S.S. 1999, c. H-0.021 (hereinafter HIPA).

to sever some of the information in the records, thereby not complying in full with our office's recommendations.

[24] As a result, in an email dated August 20, 2013, my office notified LRWS that I would be issuing a Review Report.

II RECORDS AT ISSUE

[25] The responsive records are records pertaining to an explosion that occurred in Nipawin in 2008. The Index of Records that LRWS enclosed with its letter dated September 22, 2011 sent to my office describes the responsive records as follows:

OIPC Review 018/2009 [sic] FOI AI – AEEL82/09G			
Page Number(s)	Description	Section(s)	Comments/Explanations
1-11	Notice of Contravention	15(1)(a)(c)	Documents are to remain confidential as this case is still before the courts. Release of these documents prior to hearing the court case can interfere with the prosecution.
1-336	Investigation Report	15(1)(a)(c)	Documents are to remain confidential as this case is still before the courts. Release of these documents prior to hearing the court case can interfere with the prosecution.

[26] It is unclear as to what page numbers LRWS refers to in its Index of Records as the pages do not appear to be paginated for the purposes of processing an access request. There also appears to be a significantly greater number of pages of records than 336.

[27] However, when LRWS issued its fee estimate letter dated September 27, 2012 to the Applicant, it described the responsive records as follows:

	Type of Fee	Calculation of Fees	Total Amount of Fees
1	Time required to search for records	1 hour x \$15.00/half hour	Subtotal = \$30.00
2	Time required to prepare records for disclosure	<ul style="list-style-type: none"> • 531 pages of conventional paper records • 161 emails, consisting of 307 pages • 69 email attachments, consisting of 154 pages <p>531 + 307 + 154 = 992 pages of records x average of 3 minutes⁴ redaction time per page = 2976 minutes / 60 = 49.5 hours x \$15 per half hour = \$1,485</p> <p>226 photos (1 per page) 226 pages x average of 1 minute redaction time per page = 226 minutes / 60 = 3.5 hours x \$15 per half hour, or portion of half hour = \$105</p> <p>16 audio files, equaling approximately 181 minutes in total 181 minutes redaction time / 60 = 3 hours x \$15 per half hour = \$90</p>	<p style="text-align: right;">\$1,485 + \$105 + \$90 Subtotal = \$1680.00</p>
3	Photocopies of Records	992 + 226 = 1,218 pages x \$0.25 per page = 304.50	Subtotal = \$304.50
4	LESS:	2 hours free x \$15.00/half hour	(\$60.00)
Total amount of fees required to process access request			\$1,954.50

[emphasis added]

[28] Based on the fee estimate letter, there are 1,218 pages of responsive records and 16 audio files that are also responsive records.

⁴LRWS did not explain its reason for estimating three minutes of “redaction time” per page. In my Review Report F-2010-001, I relied on an approach set forth in the Ontario Information and Privacy Commissioner’s Order P-1465 which found estimating two minutes per page for preparing records requiring severing is reasonable.

[29] My office was not aware of the existence of the audio files until it received a copy of the fee estimate letter. We sought clarification about the audio files in our October 12, 2012 letter to LRWS:

LRWS provided our office with a copy of the responsive records that were enclosed with a letter dated September 22, 2011. However, the fee estimate letter dated September 27, 2012 states there are 16 audio files. Our office never received such audio files.

Please clarify if these 16 audio files were considered a part of the responsive records but were missed in being sent to our office as a part of the Review. However, if these 16 audio files were created after LRWS received the access to information request from the Applicant, then these records would be considered non-responsive records. The records in existence on the date that LRWS received the access to information request are the records that are responsive.

[30] LRWS responded to my office in its letter dated December 3, 2012:

The sixteen audio files referenced in our estimate letter and your letter of October 12, 2012 existed on the date the request was received but were, unfortunately, missed in being sent to the OIPC as part of this review.

[31] In spite of its late admission that it missed sending the audio files to my office as part of the Review, LRWS did not provide my office with a copy of the audio files nor did it provide a transcript of the audio files. In the interest of progressing my office's oldest case file and given the suggestion from LRWS that responsive records would be forthcoming to the Applicant, including the audio files, I made the decision to move forward with this Review even in the absence of the audio files.

III ISSUES

1. Did the Ministry of Labour Relations and Workplace Safety issue an appropriate section 7 response?

a. Did the Ministry of Labour Relations and Workplace Safety issue a proper fee estimate?

b. Do any of the exemptions raised by the Ministry of Labour Relations and Workplace Safety apply to the records?

c. Did the Ministry of Labour Relations and Workplace Safety meet its duty to assist?

IV DISCUSSION OF THE ISSUES

[32] Section 2(1)(d)(i) of FOIP defines “government institution” as follows:

2(1) In this Act:

...

(d) “government institution” means, subject to subsection (2):

(i) the office of Executive Council or any department, secretariat or other similar agency of the executive government of Saskatchewan;

[33] Therefore, LRWS is a government institution for the purposes of FOIP.

[34] Further, section 2(t)(i) of HIPA defines “trustee” as follows:

2 In this Act:

...

(t) “trustee” means any of the following that have custody or control of personal health information:

(i) a government institution;

[35] Therefore, LRWS is also a trustee for the purposes of HIPA as it is a government institution.

1. **Did the Ministry of Labour Relations and Workplace Safety issue an appropriate section 7 response?**

a. **Did the Ministry of Labour Relations and Workplace Safety issue a proper fee estimate?**

[36] Section 7(2) of FOIP reads as follows:

7(2) The head shall give written notice to the applicant within 30 days after the application is made:

(a) stating that access to the record or part of it will be given on payment of the prescribed fee and setting out the place where, or manner in which, access will be available;

(b) if the record requested is published, referring the applicant to the publication;

(c) if the record is to be published within 90 days, informing the applicant of that fact and of the approximate date of publication;

(d) stating that access is refused, setting out the reason for the refusal and identifying the specific provision of this Act on which the refusal is based;

(e) stating that access is refused for the reason that the record does not exist; or

(f) stating that confirmation or denial of the existence of the record is refused pursuant to subsection (4).

[emphasis added]

[37] My office wrote a letter dated October 12, 2012 to LRWS stating the following:

It appears that section 7 is the only mechanism a government institution has for the application of fees to access to information requests. Section 7(2)(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP) provides as follows:

7(2) The head shall give written notice to the applicant **within 30 days after the application is made:**

(a) stating that access to the record or part of it will be given on payment of the **prescribed fee** and setting out the place where, or manner in which, access will be available;

[emphasis in original]

Further, section 9(1) of FOIP states:

9(1) An applicant who is given notice pursuant to clause 7(2)(a) is entitled to obtain access to the record on payment of the prescribed fee.

However, it appears that in LRWS' original section 7 letter dated March 4, 2010 to the Applicant [sic] does not mention anything about fees.

The purpose of issuing a fee estimate within thirty days of receiving an access to information request is explained in our office's *Helpful Tips: Best Practices for Public Bodies/Trustees for the Processing of Access Requests*:

It is implicit in the Acts that the estimate should be provided to the applicant before the services are provided. Once the work has been done, the fees would be precisely calculated and there would be no point in estimating fees.

It would also make little sense to put the government institution to the considerable work of preparing the record for disclosure if the applicant was unwilling to pay the appropriate costs that the government institution is permitted to charge before providing access to the applicant.

A fee estimate can facilitate discussion between the applicant and the public body to ensure a clear understanding of what is required under the request. The information in an estimate:

- **Allows the applicant an opportunity to modify the request and minimize the fees; and**
- **Prevents the public body/trustee from doing more work than necessary, especially early on.**

Sections 9(2), (3) and (4) of FOIP and section 7(1) of the FOIP Regulations provide that when the estimated fees exceed \$50:

- The head of a government institution must provide “a reasonable estimate of the amount” of fees; and the applicant shall not be required to pay an amount greater than the estimated amount;
- The 30 day period to respond to an access request is suspended “until the applicant notifies the head that the applicant wishes to proceed with the application”.

One half of the estimated amount must be paid before the processing of the application proceeds and the balance must be paid before the delivery of the records. If the fee estimate “exceeds the actual amount of fees” incurred in fulfilling the request, “the actual amount of fees is the amount payable.”

[emphasis in original]

If it were LRWS' intentions to issue a fee estimate, it should have done so within 30 days of receiving the access to information request. Issuing a fee estimate at that time would have achieved the purposes of fee estimates that are outlined above.

Since the 30 days has already elapsed, and there are no other mechanism within FOIP that allows for the government institution to issue a fee estimate, we recommend that LRWS rescind the fee estimate it issued to the Applicant.

[emphasis added]

- [38] LRWS responded in its December 3, 2012 letter arguing that it properly issued the fee estimate:

In your letter you state that if it were LRWS' intention to issue a fee estimate, the Ministry should have done so within 30 days of receiving the request. Please note that the former Ministry of Advanced Education, Employment and Labour provided subsection 7(2)(d) notice to the applicant on March 4, 2010; notifying them that access was denied pursuant to subsections 15(1)(a) and 15(1)(c) of the Act. **Subsection 7(2)(d) does not trigger section 9 of the Act, which deals with fees. Section 9 states that only a subsection 7(2)(a) notice given to the applicant initiates the fee process. Therefore it would have been wholly incorrect for the Ministry to issue a fee estimate for records at that time, since they were being withheld.** Your letter argues that the Ministry cannot issue a fee estimate at this point. Yet the Ministry could not have issued a fee estimate in early 2010 when access to the records was denied. As a steward of taxpayer resources, I find this troubling.

[emphasis added]

- [39] A response was issued pursuant to subsection 7(2)(d), not subsection 7(2)(a) of FOIP. There is no provision in FOIP that enables a public body to issue a new section 7 response 31 months after it receives an access request.
- [40] My office issued a letter dated February 26, 2013 recommending that LRWS rescind its fee estimate. Initially, LRWS refused. However, LRWS rescinded the fee estimate according to a letter dated July 12, 2013 that it sent to the Applicant. The letter stated:

Please be advised that the Ministry of Labour Relations and Workplace Safety has agreed to comply with the recommendations made by the Office of the Information and Privacy Commissioner in their February 26, 2013 Note to File on this matter, namely:

- 1) We recommend that the Ministry of Labour Relations and Workplace Safety rescind its fee estimate letter.
- 2) We recommend that the Ministry of Labour Relations and Workplace Safety review the records and only sever information that can be withheld the [sic] mandatory exemptions section 29(1) of *The Freedom of Information and Protection of Privacy Act* and section 27(1) of *The Health Information Protection Act* and then provide the severed record to the Applicant.

Please consider our fee estimate letter of September 27, 2012 to be rescinded. We will provide you with the requested records by July 31, 2013.

[emphasis added]

[41] I find that LRWS did not issue a fee estimate in accordance with FOIP and that it was appropriate to rescind the fee estimate.

b. Do any of the exemptions raised by the Ministry of Labour Relations and Workplace Safety apply to the records?

[42] As stated in the “Background” section of this Review Report, LRWS initially withheld all the responsive records pursuant to section 15(1)(a) and 15(1)(c) of FOIP. Then, it changed its position and raised sections 16, 17, 18, 19, and 29, of FOIP and sections 5, 27, and 30 of HIPA.⁵

[43] In a letter dated October 12, 2012, my office communicated to LRWS that my office’s practice is not to consider discretionary exemptions that are introduced during a review unless the government institution can demonstrate that it will not prejudice the Applicant.⁶ Also in our letter, we advised that in this case, there is a clear prejudice to the Applicant by claiming new exemptions 31 months after the Applicant submitted her access request. Therefore, we would not consider the discretionary exemptions.

⁵Sections 5 and 30 of HIPA are not exemptions and therefore not grounds to withhold information.

⁶Saskatchewan Information and Privacy Commissioner (hereinafter SK OIPC) Review Reports F-2012-006 at [175], F-2006-004 at [18], F-2005-006 at [6], F-2004-007 at [16], LA-2011-004 at [8], LA-2011-003 at [17], LA-2007-002 at [16] and [22], all available at www.oipc.sk.ca/reviews.htm and SK OIPC *Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review* at p. 8, available at www.oipc.sk.ca/resources.htm.

- [44] In terms of mandatory exemptions, based on the face of the records, my office found that section 29(1) of FOIP and section 27(1) of HIPA would be applicable to withhold some of the information in the records. However, I found that neither sections 16 nor 19 of FOIP was applicable.
- [45] My office's letter dated February 26, 2013 recommended to LRWS that it sever only personal information and personal health information pursuant to section 29(1) of FOIP and section 27(1) of HIPA but release the remaining information.
- [46] Initially, LRWS refused to comply. However, in its letter dated July 12, 2013 to the Applicant, it stated that it would comply with my office's recommendation.
- [47] However, on August 1, 2013, we received an email from LRWS where it announced that it was relying on yet another discretionary exemption to withhold information contained in the records:

Please note that, in addition to applying sections 29(1) FOIPPA and 27(1) HIPA, **the Ministry withheld certain client-solicitor privileged information from release under section 22 of FOIPPA. The Ministry felt strongly that this information needed to be protected in the interests of on-going and future client-solicitor relationships, which are crucial for the administration of justice.**

[emphasis added]

- [48] Section 22 of FOIP is a discretionary exemption. Again, at no point during the first 30 days of processing the access to information request or during the course of the review did LRWS (or AEEL) raise section 22 of FOIP. I find that raising section 22 of FOIP nearly 42 months after the Applicant submitted her access to information request is highly prejudicial to the Applicant. As stated earlier in the discussion about discretionary exemptions, I will not consider the late introduction of discretionary exemptions raised during the review process.

c. Did the Ministry of Labour Relations and Workplace Safety meet its duty to assist?

[49] In my Review Report F-2004-003, I stated the following about the implicit duty to assist in FOIP:

[12] There is no explicit duty to assist applicants in the Saskatchewan *Freedom of Information and Protection of Privacy Act*. Such an explicit duty exists in certain other provinces. For example, in the British Columbia *Freedom of Information and Protection of Privacy Act* the head of a public body “must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely”. [section 6(1)] A similar provision appears in the Alberta *Freedom of Information and Protection of Privacy Act* [section 10(1)].

[13] The right of access under the Act is described in section 5 as follows:

“Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a government institution.”

[14] I am mindful that most citizens will not have a detailed knowledge of the types and description of records that a government institution maintains. A requirement for government institutions to take reasonable steps to search for responsive records is an important feature to address the knowledge imbalance between the institution and the applicant. If there is no duty to assist, the right of access may be more illusory than real.

[15] My view is that to realize and respect the “right” guaranteed to Saskatchewan residents by the Act, there is an implicit requirement for government institutions to assist applicants and to respond openly, accurately and completely to an access request.

Although the duty to assist is only an implicit requirement we want to clearly signal to government institutions, local authorities and health trustees that this office views it as an important duty. It is intended to complement those objectives articulated by the Saskatchewan Court of Appeal.⁷

[emphasis added]

⁷SK OIPC Review Report F-2004-003, available at www.oipc.sk.ca/reviews/htm. The duty to assist is also discussed in my Review Reports F-2012-002, F-2012-001/LA-2012-001, F-2010-001, F-2008-001, F-2007-001, F-2006-004, F-2006-002, F-2004-007 and F-2004-005, all available at www.oipc.sk.ca/reviews/htm.

[50] I find that LRWS has not met its implicit duty to assist. Delays in the review process resulted from:

- the issuance of a fee estimate during the review process,
- raising late discretionary exemptions on two occasions in the review process,
- lack of provision of the audio files to my office, and
- insufficiently identifying records in its Index of Records.

V FINDINGS

[51] I find that the Ministry of Labour Relations and Workplace Safety did not issue a fee estimate in accordance with *The Freedom of Information and Protection of Privacy Act* and that it was appropriate that it later rescinded the fee estimate.

[52] I find that some of the information in the responsive records can be withheld pursuant to section 29(1) of *The Freedom of Information and Protection of Privacy Act*.

[53] I find that some of the information in the responsive records can be withheld pursuant to section 27(1) of *The Health Information Protection Act*.

[54] I find that none of the discretionary exemptions raised by the Ministry of Labour Relations and Workplace Safety are applicable.

[55] I find that the Ministry of Labour Relations and Workplace Safety did not meet its implicit duty to assist.

VI RECOMMENDATIONS

[56] I recommend that the Ministry of Labour Relations and Workplace Safety continue to withhold personal information pursuant to section 29(1) of *The Freedom of Information and Protection of Privacy Act* and personal health information pursuant to section 27(1) of *The Health Information Protection Act* in the records, including the audio files.

[57] I recommend that the Ministry of Labour Relations and Workplace Safety release the information it severed under section 22 of *The Freedom of Information and Protection of Privacy Act* to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 21st day of November, 2013.

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