



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 142-2024

Saskatchewan Government Insurance

October 30, 2024

Summary:

The Applicant submitted an access to information request to Saskatchewan Government Insurance (SGI) requesting access to records related to private property claims. In its section 7 decision, SGI considered some information as non-responsive and withheld portions of the records, pursuant to subsections 17(1)(a), (b)(i), and 18(1)(f) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant requested the Commissioner review the application of the above exemptions to the records. Upon review, the A/Commissioner found SGI properly considered some information non-responsive to the Applicant's request and that subsections 17(1)(a) and 18(1)(f) of FOIP were properly applied to portions of the record. The A/Commissioner recommended SGI continue to withhold the non-responsive information and information redacted pursuant to subsections 17(1)(a) and 18(1)(f) of FOIP. Given that the non-responsive information should not have been included in the Applicant's file history, the A/Commissioner recommends SGI remove the correspondence from the Applicant's file and continue to withhold the non-responsive information.

I BACKGROUND

[1] On February 22, 2024, Saskatchewan Government Insurance (SGI) received the following access to information request from the Applicant:

For my records, I am requesting a complete copy of my claim files and all related documents or records for [my] property claims:

SG SK [SGI policy number removed]

SG SK [SGI policy number removed]

Policy: [SGI policy number removed] Home Pak

- [2] In a letter to the Applicant dated March 22, 2024, SGI indicated it required 30 additional days to provide responsive records pursuant to subsections 12(1)(a)(i) and (ii) of *The Freedom of Information and Protection of Privacy Act* (FOIP). It also indicated the new response due date would be April 22, 2024.
- [3] In a letter to the Applicant dated April 18, 2024, SGI provided its section 7 decision, indicating that it was withholding portions of the records, pursuant to subsections 17(1)(a), (b)(i), and 18(1)(f) of FOIP. SGI also provided an appendix indicating that it was withholding information considered non-responsive. In addition, SGI informed the Applicant of the right to request a review of this decision from my office.
- [4] On May 21, 2024, the Applicant emailed a request for review to my office. In the request for review form, the Applicant indicated they had requested access to their personal information but were refused access to part of the record.
- [5] In a letter dated May 24, 2024, SGI informed the Applicant that it had reconsidered some of its exemptions. SGI released additional information from the records to the Applicant. An updated appendix outlining the newly released information was included with that letter.
- [6] On May 27, 2024, my office contacted the Applicant to inquire if they were satisfied with the release of additional information from SGI or if they wished for my office to continue with the review. Later the same day, the Applicant asked my office to proceed with a review, and my office provided notice to SGI and the Applicant of my intent to undertake a review. My office's notice to SGI requested a copy of the records and an index of records by June 26, 2024, and its submission to support the application of the exemptions by July 26, 2024. The Applicant was also invited to provide a submission by this date.

[7] On June 25, 2024, SGI provided my office with its record, index of records and submission. No submission was received from the Applicant.

II RECORDS AT ISSUE

[8] The record at issue consists of six pages. All six pages are described by SGI as “General Claim Summary Sheets,” which document inspection comments, insurance quotes, correspondence between SGI employees (i.e. adjusters), and correspondence with the insured (i.e., the Applicant). Four pages were withheld as non-responsive, and two others were withheld in part. The following table depicts the exemptions applied to each page of the record:

Page No.	Redaction Number	Description of Record	FOIP Exemptions Applied
P0084-P0087	1 (withheld pages in full)	General Claim Summary Sheet	Non-responsive
P0803	9	General Claim Summary Sheet – Reserve Information	18(1)(f)
P0911	12	General Claim Summary Sheet	17(1)(a); 17(1)(b)(i)
	13	General Claim Summary Sheet	17(1)(a); 17(1)(b)(i)

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[9] SGI is a “government institution” as defined by subsection 2(1)(d)(ii) of FOIP and section 3 and PART I of the Appendix of *The Freedom of Information and Protection of Privacy Regulations*. Therefore, I have jurisdiction to conduct this review.

2. Did SGI properly consider some records non-responsive?

[10] According to my office’s *Guide to FOIP*, Chapter 3 on “Access to Records,” when a government institution receives an access to information request, it must determine what information is responsive to the request. “Responsive” means relevant; that is, anything reasonably related to the request. It follows that any information or records that do not reasonably relate to an applicant’s request will be considered “non-responsive” (*Guide to FOIP*, Chapter 3: “Access to Records,” updated May 5, 2023 [*Guide to FOIP*, Ch. 3], pp. 26-27).

[11] The Applicant requested the following information:

For my records, I am requesting a complete copy of my claim files and all related documents or records for [my] property claims:

SG SK [SGI policy number removed]
SG SK [SGI policy number removed]
Policy: [SGI policy number removed] Home Pak

[12] SGI identified four pages of the record as non-responsive in its index of records provided to my office. In its section 7 decision, SGI applied no other exemptions to the information it considered non-responsive.

[13] My office uses the following three-part test to determine what information is responsive:

1. The request sets out the boundaries of relevancy and circumscribes the records or information that will ultimately be identified as responsive.
2. A government institution can remove information as not responsive only if the applicant has requested specific information, such as the applicant’s personal information.
3. The government institution may treat portions of a record as not responsive if they are separate, distinct, and entirely unrelated to the access request. However, use it sparingly and only where necessary.

(*Guide to FOIP*, Ch. 3, pp. 26-27)

[14] In its submission to my office, SGI noted the following:

Pages P0084 to P0087 are non-responsive because they are emails that contain the personal information of someone other than the Applicant and are not accurately part of the Applicant's requested claim file. **SGI discovered that the emails had personal information of another person in them shortly after they were sent, and the Applicant was instructed to delete them. However, the email records remain in SGI's database as part of the claim file for proper continuity and auditing purposes and they surfaced in SGI's search procedure for the FOI request.**

Alternatively, the non-responsive email records would have been redacted under s. 29(1) of FOIP. The records contain the claim number and name of another person who is not the Applicant. The claim number is personal information as it is an identifying number assigned by SGI, as defined in s.24(1)(d) of FOIP. The claimant's name is personal information as described in s.24(1)(k)(i) of FOIP as it appears with the claim number...

[Emphasis added]

[15] On October 21, 2024, my office sought clarification from SGI regarding the above. On October 24, 2024, SGI responded as follows:

It was later discovered that this particular email correspondence was mistakenly included in the Applicant's file. The adjuster has been informed that the email should not have been attached to the file. She has since contacted our business support team to have the email thread removed from the file. This issue came to light while gathering information to respond to the Applicant.

[16] SGI has not indicated or acknowledged that the disclosure of another customer's personal information to the Applicant constituted a breach of privacy under FOIP. SGI should address this apparent breach of privacy consistent with my office's four best practice steps, outlined in my office's resource: [*Privacy Breach Guidelines for Government Institutions and Local Authorities*](#). My office will follow-up with SGI directly on this matter, as it is not reviewed in this Report.

[17] Based on a review of the four pages at issue, the email correspondence between SGI and the Applicant involves another insured person, not the Applicant, and the pages should not have been included in the Applicant's file history. The information in the email

correspondence is separate, distinct, and unrelated to what the Applicant seeks in their access to information request.

[18] Therefore, I find SGI properly considered the information within these four pages as non-responsive to the Applicant's access to information request. Given that this correspondence should not have been included in the Applicant's file history, I recommend SGI remove the correspondence from the Applicant's file and continue to withhold the non-responsive information.

3. Did SGI properly apply subsection 17(1)(a) of FOIP?

[19] SGI applied subsection 17(1)(a) of FOIP to portions of information on one page of the record referred to as P0911. This page contains emails between an adjuster and a senior adjuster.

[20] Subsection 17(1)(a) of FOIP provides:

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

(a) advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council

[21] As a discretionary, class-based provision, section 17 of FOIP permits refusal of access in situations where release of a record could reasonably be expected to disclose advice, proposals, recommendations, analyses or policy options developed by or for a government institution.

[22] The Supreme Court of Canada addressed the purpose of the equivalent provision in Ontario's *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, subsection 13(1) in *John Doe v. Ontario (Finance)*, (2014):

[43] The purpose of this provision is to preserve an effective and neutral public service so as to permit public servants to provide full, free and frank advice... Failing to exempt

such material risks having advice or recommendations that are less candid and complete, and the public service no longer being perceived as neutral ... Political neutrality, both actual and perceived, is an essential feature of the civil service in Canada.

(*Guide to FOIP*, Chapter 4: “Exemptions from the Right of Access,” updated April 8, 2024 [*Guide to FOIP*, Ch. 4], pp. 125-127)

[23] In other words, my office affirms that, political neutrality may be maintained by allowing public servants to provide earnest, comprehensive advice insulated by confidentiality.

[24] My office uses the following two-part test when determining if subsection 17(1)(a) of FOIP applies:

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?
2. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?

[25] I will now consider each part of the above test.

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?

[26] In its submission to my office, SGI asserted:

The earlier email [shown in P0911] is an adjuster telling a senior adjuster what her analysis of a situation is and asking for advice. The reply [shown in P0911] is the senior adjuster’s analysis and her recommendations.

[27] In my office’s *Guide to FOIP*, Ch. 4 defines the following terms on pages 100 and 101:

- “Advice” is guidance offered by one person to another.
- A “recommendation” is a specific piece of advice about what to do, especially when given officially; a suggestion that someone should choose a particular thing or person that one thinks particularly good or meritorious.

- “Analyses” refers to a detailed examination of the elements or structure of something; the process of separating something into its constituent elements.

[28] Based on a review of page P0911, it appears the correspondence contains analysis, advice, and a recommendation. In this document, a less experienced (junior) adjuster sought guidance and suggestions from a more experienced (senior) adjuster. The senior adjuster outlined a detailed examination of the claim (analysis) and went on to provide guidance (advice) and a suggestion of what the junior adjuster should do (a recommendation). As such, I find the first part of the test is met for P0911.

2. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?

[29] In my office’s *Guide to FOIP*, Ch. 4, it clarifies the following phrase on page 131:

- “Developed by or for” means the advice, proposals, recommendations, analyses and/or policy options must have been created either:
 - within the government institution, or
 - outside the government institution but for a government institution and at its request (for example, by a service provider or stakeholder).

[30] Previously, my office has referenced [Order-F2013-13](#) made by Alberta’s Office of the Information and Privacy Commissioner (AB IPC) as it addresses subsections 24(1)(a) and (b) of Alberta’s *Freedom of Information and Protection of Privacy Act* (AB FOIP). Subsection 24(1)(a) and (b) of AB FOIP is similar to subsections 17(1)(a) and (b) of FOIP. The following excerpt from AB IPC’s Order clarifies the need for the employee giving the advice, recommendations, or analyses to be in an advisory role or for it to be part of the responsibilities to do so:

[para 146] ... 24(1)(a) is intended to protect communications developed for a public body by an advisor ... Information that is the subject of section 24(1)(a) may be voluntarily or spontaneously provided to a decision maker for the decision maker’s use because it is the responsibility of an employee to provide information of this kind.

[31] Employees of government institutions communicate back and forth all the time. Not every communication containing advice, recommendations or analyses is captured by subsection 17(1)(a) of FOIP. Moreover, my office's *Guide to FOIP*, Ch. 4, also states that, for information to be "developed by or for" a government institution, the person developing the information should be an official, officer or employee of the government institution, be contracted to perform services, be specifically engaged in an advisory role (even if not paid), or otherwise have a sufficient connection to the government institution (pp. 126-127).

[32] In other words, to be "developed by or for" the government institution, the advice, proposals, recommendations, analyses and/or policy options should:

- be either sought, be expected or be part of the responsibility of the person who prepared the record;
- be prepared for the purpose of doing something, for example, taking an action or making a decision;
- involve or be intended for someone who can take or implement the action.

[33] In its submission to my office, SGI asserted that P0911 documents: "two SGI employees ... deliberating the decision to be made on one aspect of the insurance claim."

[34] Based on a review of P0911, it appears that the email correspondence does reflect analyses, advice, and recommendations developed by two SGI employees. I arrive at this interpretation though the observation of the following facts:

- The two people engaged in the email communication both use official SGI email addresses.
- The senior adjuster in the correspondence has been verified as an employee of SGI.
- The junior adjuster in the correspondence has been verified as an employee of SGI.
- Insurance is the focus of the communication.

[35] Further, the email correspondence revealed that the junior adjuster sought advice and recommendations from the senior adjuster. The senior adjuster articulated analyses to support the advice and recommendations provided. Subsequently, the senior adjuster's analyses, advice, and recommendations were intended for the junior adjuster to implement. Thus, the email correspondence was developed by and for a government institution, in this case SGI. As such, I find the second part of the test is met for P0911.

[36] Therefore, as both parts of the test have been met, I find SGI has appropriately applied subsection 17(1)(a) of FOIP to the information withheld on page P0911. I recommend SGI continue to withhold this information. As I have found that subsection 17(1)(a) of FOIP applies, I do not have to consider SGI's application of subsection 17(1)(b)(i) of FOIP to the same information.

4. Did SGI properly apply subsection 18(1)(f) of FOIP?

[37] SGI applied subsection 18(1)(f) of FOIP to portions of information on one page referred to as P0803.

[38] Subsection 18(1)(f) of FOIP provides:

18(1) A head may refuse to give access to a record that could reasonably be expected to disclose:

...

(f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the Government of Saskatchewan or a government institution

[39] My office uses the following test when determining if subsection 18(1)(f) of FOIP applies:

Could disclosure reasonably be expected to prejudice the economic interests of the Government of Saskatchewan or a government institution?

[40] My office's *Guide to FOIP*, Ch. 4, defines the following terms on page 188:

- “Could reasonably be expected to” means there must be a reasonable expectation that disclosure could prejudice the economic interests of the government institution or the Government of Saskatchewan.
- “Prejudice” in this context refers to detriment to economic interests.
- “Economic interests” refer to both the broad interests of a government institution and, for the government as a whole, in managing the production, distribution and consumption of goods and services. This also covers financial matters such as the management of assets and liabilities by a government institution and the government institution's ability to protect its own or the government's interests in financial transactions.

[41] In its submission to my office, SGI asserted the redacted information on page P0803 was reserve information and stated: “Reserve information reflects the possible value of a claim and is periodically revised to track the liability of the claim.”

[42] SGI referred to my office's [Review Report 104-2017](#), wherein at paragraph [36], it states:

Reserving is a reflection of the possible, not actual, value of the claim either at the time the reserve is established or periodically reviewed. ... Such information is never released to a customer as it is not often an accurate reflection of the value of the claim and the release of this information has the potential to undermine SGI's ability to negotiate fairly with the customer. ... **I find that the release of such information could reasonably prejudice the economic interests of SGI.**

[Emphasis added]

[43] I note in Review Report 104-2017, I considered the application of subsection 18(1)(f) of FOIP to similar “reserving” information and I found subsection 18(1)(f) of FOIP applied to such information. Therefore, consistent with that finding, and based on a review of P0803, it appears that the withheld information is reserve information. Further, releasing reserve information to the Applicant could reasonably be expected to be detrimental to SGI's economic capacity to negotiate. As such the test has been met.

[44] Therefore, I find SGI appropriately applied subsection 18(1)(f) of FOIP to the withheld portions of page P0803. I recommend SGI continue to withhold this information.

IV FINDINGS

[45] I find I have jurisdiction to complete this review.

[46] I find SGI properly considered the information within pages P0084 to P0087 as non-responsive to the Applicant's access to information request.

[47] I find subsection 17(1)(a) of FOIP was properly applied to a portion of page P0911.

[48] I find subsection 18(1)(f) of FOIP was properly applied to the redaction on page P0803.

V RECOMMENDATIONS

[49] I recommend SGI continue to withhold the non-responsive information and remove the correspondence from the Applicant's file.

[50] I recommend SGI continue to withhold the information redacted from pages P0803 and P0911.

Dated at Regina, in the Province of Saskatchewan, this 30th day of October, 2024.

Ronald J. Kruzeniski, KC
A/Saskatchewan Information and Privacy
Commissioner