



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 265-2024

Ministry of Labour Relations and Workplace Safety

June 26, 2025

Summary:

The Applicant made an access to information request to the Ministry of Labour Relations and Workplace Safety (LRWS) for records related to health and safety investigations and with respect to LRWS' legal jurisdiction. LRWS provided the Applicant with a link to a webpage that it alleged contained responsive records, pursuant to section 7(2)(b) of *The Freedom of Information and Protection of Privacy Act* (FOIP). LRWS also denied access to other records in full claiming that they are exempt pursuant to section 15(1)(e) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant requested a review of LRWS's decision by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC).

The Commissioner made the following findings/recommendations: (1) LRWS did not properly respond to the Applicant pursuant to section 7(2)(b) of FOIP. The Commissioner recommended that LRWS complete a new search for LRWS statutes and regulations that were in effect between the years 2016 and 2017 and issue a new section 7 decision providing this information. The Commissioner also recommended that in the future, LRWS provide direct links to responsive resources when issuing section 7(2)(b) FOIP decision letters. (2) LRWS properly applied section 15(1)(e) of FOIP to some portions of the records, but not to others. The Commissioner recommended that LRWS continue to withhold or release those records accordingly. Where the Commissioner recommended release, she recommended that LRWS do so within 30 days of the issuance of this Report. (3) LRWS failed to achieve its severing responsibilities pursuant to section 8 of FOIP because it failed to engage in a considered analysis of what portions of the records could be released and what could not.

I BACKGROUND

- [1] On August 14, 2024, the Ministry of Labour Relations and Workplace Safety (LRWS) received an access to information request from the Applicant for information dated between the years 2016 and 2017, as follows:
- A. the Government of Saskatchewan Act that grants LRWS the power and authority to enforce Saskatchewan Labour Laws/Regulations/Acts.
 - B. Acts/Policies/Procedures, that guide LRWS to:
 - issue non-compliance orders and/or;
 - persecute persons/businesses;
 - that contravene Saskatchewan labour/Regulations/Acts.
- [2] On the same day, LRWS emailed its section 7 decision to the Applicant. In response to Part A of the access request, LRWS provided a link to its webpage that includes links to its enabling statutory and regulatory authorities. LRWS provided the link pursuant to section 7(2)(b) of FOIP. With respect to Part B of the access request, LRWS denied access in full to the policies and procedures responsive to the request, pursuant to section 15(1)(e) of FOIP.
- [3] On November 26, 2024, the Applicant filed a request for a review with the Office of the Saskatchewan Information and Privacy Commissioner (OIPC). The Applicant confirmed that they wished a review of LRWS' decision to withhold the records from Part B of the access request. They noted as a postscript that LRWS' link was not responsive to Part A of their request because it just sent them to the current enabling legislation.
- [4] On December 10, 2024, OIPC sent notices of review to the Applicant and LRWS inviting each to provide a submission.
- [5] The Applicant provided a submission and materials to OIPC on December 16, 2024. They provided supplementary information and materials on December 17, 2024 and on January 8, 2025.

[6] On December 20, 2024, LRWS provided OIPC with an index of records and the records they deemed responsive to Part B of the request. LRWS also provided the Internet link it deems responsive to Part A of the request.

[7] On February 7, 2025, LRWS provided a written submission to OIPC. LRWS stipulated it did not consent to the sharing of its written submission with the Applicant.

I RECORDS AT ISSUE

[8] LRWS did not provide hard copies of the records that it said were publicly available in response to Part A of the Applicant's access request because they sent an Internet link. The first task will be to consider whether the Internet link that LRWS provided to the Applicant was responsive to Part A of their request in compliance with section 7(2)(b) of FOIP.

[9] With respect to Part B of the access request, LRWS claimed a total of 29 pages as responsive. These 29 pages comprise seven separate Occupational Health and Safety (OHS) policies. LRWS withheld all seven policies in full, pursuant to section 15(1)(e) of FOIP. For the purposes of the following analysis, the policies may be described as follows:

- Record 1 (6 pages);
- Record 2 (3 pages);
- Record 3 (4 pages);
- Record 4 (5 pages);
- Record 5 (7 pages);
- Record 6 (2 pages); and
- Records 7 (2 pages).

II DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[10] LRWS qualifies as a “government institution” as defined by section 2(1)(d)(i) of FOIP. Therefore, OIPC has jurisdiction to conduct this review.

2. Did LRWS properly respond to Part A of the Applicant’s access request pursuant to section 7(2)(b) of FOIP?

[11] Section 7(2)(b) of FOIP provides that if the record requested is published, the government institution can refer the applicant directly to the publication. Section 7(2)(b) of FOIP provides as follows:

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

...

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

[12] A government institution is entitled to refer an applicant to an online publication if the record requested is published and online.¹ Responding in this way pursuant to section 7(2)(b) assumes that a government institution has identified the records requested as relevant. Logic dictates that if a link is provided, then the government institution has previously verified the link to ensure responsiveness. The government institution should also specify what titles or documents are responsive.² In other words, the link should be to a specific, publicly available resource that the government institution determines is responsive.

[13] In its section 7 decision dated August 14, 2024, LRWS directed the Applicant to a list of four Acts and 11 sets of regulations on LRWS’ webpage that provide its *current* legal authority.³

¹ See OIPC [Review Report 286-2023](#) at paragraphs [36] and [37].

² See OIPC [Review Report 239-2020](#) at paragraph [75].

³ See item number 6 at LRWS’s [webpage](#).

- [14] In its submission dated February 7, 2025, LRWS addressed its reliance on section 7(2)(b) of FOIP as follows:

The ministry used section 7(2)(b) to provide the applicant with the requested Acts by directing them to the Saskatchewan.ca website.

...

The applicant raised issue with the way the requested information was provided by the ministry as a link was provided rather than the actual documents. In addition, the applicant notified the ministry that there was a typo in the link in its full form in the body of the letter. The hyperlink attached to the text is correct. This means you get a different result depending on whether you click on the link or copy and paste it into the browser. The typo is in the word “ministries” – it says “ministires” in the body of the section 7 letter.

...

The ministry submits that while the intention was to properly apply section 7(2)(b) of the Act, the typo does cause issue in accessing the publication requested. In future, the ministry will ensure all links are correct and work appropriately.

- [15] If LRWS determined that a particular Act or regulation was responsive to what the Applicant requested in Part A, it should have provided a direct link to the Act or regulation that was free of any typographical errors. Further, the Applicant stipulated the scope of their access request to be for records between 2016 and 2017. The Applicant clarified that they requested “legislation, regulations or policies relating to a workplace incident that occurred around that time”, they noted that the link did not meet the request. LRWS should have explained how it determined that its current legal authorities were responsive based on the parameters of the Applicant’s request. For example, LRWS should have directly addressed whether the legislation and regulations remained completely unchanged from 2016 to the current time such that the link was truly responsive, if that was the case.
- [16] In conclusion, LRWS’ response to Part A of the Applicant’s access pursuant to section 7(2)(b) of FOIP was not appropriate. There will be a finding that LRWS did not properly respond to Part A of the Applicant’s access request pursuant to section 7(2)(b) of FOIP. There will be a recommendation that, within 30 days of the issuance of this Report, LRWS confirm that the present link is responsive to the Applicant’s request and if not, that a new

search be commenced for Acts and regulations that were in existence between the years 2016 and 2017. LRWS must also issue a new section 7 decision to the Applicant within 30 days if the earlier decision is incorrect. The final recommendation is that, in the future, LRWS provide links to specific documents or resources without typographical errors so that the link is truly responsive to the access request.

3. Did LRWS properly apply section 15(1)(e) of FOIP to the records responsive to Part B of the Applicant's access request?

[17] Section 15(1)(e) of FOIP is a discretionary class-based exemption. It permits refusal of access in situations where the release of a record could reveal investigative techniques or procedures currently in use or likely to be used.⁴ Section 15(1)(e) of FOIP recognizes that unrestricted access to law enforcement investigative techniques could reduce their usefulness, effectiveness and success. Section 15(1)(e) of FOIP provides as follows:

15(1) A head may refuse to give access to a record, the release of which could:

...
(e) reveal investigative techniques or procedures currently in use or likely to be used;

[18] OIPC uses the following three-part test to determine if section 15(1)(e) of FOIP applies:⁵

1. Does the information in question constitute “investigative techniques” or “procedures?”
2. Are the investigative techniques and/or procedures currently in use or likely to be used?
3. Could disclosure reveal investigative techniques or procedures?

1. Does the information in question constitute “investigative techniques” or “procedures?”

⁴ See OIPC [Review Report 259-2022](#) at paragraph [25].

⁵ See OIPC [Review Report 205-2023](#) at paragraph [8].

[19] Section 15(1)(e) of FOIP applies to specific procedures or investigative techniques to be followed when undertaking an investigation. The techniques and procedures are distinctly separate from standard policies, which are not caught by this exemption.⁶ Even if they are specific techniques and procedures, they are not automatically caught by this exemption without further analysis.⁷ Information should include specific techniques and procedures and not just refer to them. The techniques and procedures must not be routine, common, customary or known.⁸ OIPC has consistently considered section 15(1)(e) of FOIP, and the equivalent provision section 14(1)(e) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP), based on these criteria.⁹

[20] LRWS submits that Records 1 through 7 originated from its Occupational Health and Safety (OHS) branch. LRWS provided the following sparse argument in support of how it found section 15(1)(e) of FOIP to apply to all seven records in this matter:

The ministry submits that these records guide the Occupational Health and Safety branch in their internal investigations and disclosing these records is not in the best interest of the ministry or public.

The ministry submits it has properly applied section 15(1)(e) of FOIP to the records indicated. However, in future the ministry will provide applicants with access to general information on inspections and investigations available on saskatchewan.ca when it is applicable to the request. This will allow applicants to have a general sense of what takes place or guides an investigation, without revealing techniques and procedures used.

[21] For context, the LRWS mandate “promotes safe and healthy workplaces through interactions with employers and workers... and conducts investigations of serious incidents and fatalities.”¹⁰ Occupational Health Officers (OHO) are to “enforce and administer

⁶ See OIPC [Review Report F-2014-001](#) at paragraphs [187] to [191]

⁷ See OIPC [Review Report 96-021](#).

⁸ See OIPC [Review Report 181-2022, 182-2022](#) at paragraph [67].

⁹ See OIPC [Review Report 132-2020](#) and [Review 095-2023](#).

¹⁰ Taken from LRWS’ [Annual Report for 2023-24](#).

occupational health and safety legislation as per *The Saskatchewan Employment Act (SEA)*.¹¹ Records 1 through 7 reference different provisions of the *SEA*. The provision that enables an investigation, and an OHO's powers upon investigation, appears to be section 3-68 of the *SEA*.¹²

- [22] In determining whether section 15(1)(e) applies to these records, the first step is to consider if they contain “investigative techniques or procedures.” Upon review, Records 2, 6 and 7 clearly do not contain any techniques or procedures. Instead, they contain a description of the policy that has been set in place and the purpose or criteria connected to the policy. There is explanation of procedures or techniques for the keeping of this policy. Since there is no mention of investigative techniques or investigative procedures in Records 2, 6 and 7, the first part of the test has not been met.
- [23] There will be a finding that LRWS did not properly apply section 15(1)(e) of FOIP to Records 2, 6 and 7 and there will be a recommendation that LRWS release these records to the Applicant within 30 days of the issuance of this Report.
- [24] Records 1, 3, 4 and 5 *do* contain step-by-step instructions and techniques on how to conduct an investigation according to the policy in place. As well, these records generally outline policy statements and assessment criteria and refer to the enacting statute (*SEA*) and *The Occupational Health and Safety Regulations* (OHS Regulations).
- [25] As stated, any investigative techniques and procedures must not be commonly known or routine in order to be withheld from disclosure. Referring to different, publicly available resources can help determine if Records 1, 3, 4 and 5 fall into the category of common knowledge. WorkSafe Saskatchewan offers tools and information that can be used to

¹¹ Taken from the [Government of Saskatchewan](#) regarding inspections, inquiries and investigations.

¹² [The Saskatchewan Employment Act](#), SS 2013, c S-15.1, as amended.

support occupational health and safety investigations.¹³ WorkSafe Saskatchewan refers to the Canadian Centre for Occupational Health and Safety (CCOHS), which is a federal government agency. CCOHS provides an outline of how a workplace health and safety investigation can be conducted on its website, emphasizing the need to follow provincial health and safety legislation. Of course, the *SEA* and the OHS Regulations also provide guidance in this regard. CCOHS further recommends steps for the investigation of workplace incidents, such as: different methods of fact collection and evidence preservation (e.g., by photographing, interviewing witnesses), tips for analyzing evidence and making recommendations, including follow-up suggestions for the end of an investigation.¹⁴

[26] Records 1, 3, 4 and 5, for the most part, reflect the CCOHS online material. They also refer to the *SEA* and the OHS Regulations which are public laws. It is a logical conclusion that Records 1,3,4 and 5 contain what can be considered routine or commonly known techniques. This is based on what is publicly available, and as witnessed by the material on the CCOHS website.

[27] There are several exceptions, however. Page 3 of Record 4 contains specific techniques and procedures for interviewing that are specific to LRWS and heretofore, unknown and unpublished by any other source. The top of page 2 to the top of page 4 of Record 5, explain techniques and procedures for certain search methods that also appear to be unique to the agency and not commonly known. Each contains techniques and procedures that apply to case-specific situational happenings. Were these investigative techniques to be revealed, the effectiveness of the agency would surely be negatively affected. The first part of the test is met for these portions of Records 4 and 5.

[28] In terms of the review of Records 1,3, 4 and 5, there will be a finding that LRWS has not properly applied section 15(1)(e) of FOIP to Records 1 and 3 in their totality. There will

¹³ See [Investigations](#) at WorkSafe Saskatchewan.

¹⁴ See [Health and Safety Programs](#) at Canadian Centre for Occupational Health and Safety.

also be a finding that LRWS did not properly apply section 15(1)(e) to Record 4, save for page 3 which must continue to be withheld. There will be a similar finding that LRWS has not properly applied section 15(1)(e) of FOIP to Record 5, save for the top of page 2 to the top of page 4 – and these pages must be continued to be withheld. There will be a recommendation that LRWS release all of Records 1 and 3 to the Applicant in their entirety as well as the specified portions of Records 4 and 5 within 30 days of the issuance of this Report.

2. Are the investigative techniques and/or procedures currently in use or likely to be used?

3. Could disclosure reveal investigative techniques or procedures?

[29] The final phase of the analysis must focus on page 3 of Record 4 as well as the top of page 2 to the top of page 4 of Record 5.

[30] On review, it is apparent that the specified portions of Records 4 and 5 include techniques and procedures that an OHO would currently use in an investigation should the need arise. We use the word “currently” simply to mean that the techniques and procedures are in current use. LRWS has affirmed that these techniques are in current use. The second part of the test is met for these two tranches of the records.

[31] With respect the third pillar of analysis, “could” is used in reference to section 15(1)(e) and not “could reasonably be expected to”. The latter phrase is found in other provisions of FOIP. The threshold for “could” is somewhat lower than a reasonable expectation – the requirement being only that release “could” have the specified result. There does not need to be a likelihood of a happening, but only an objective possibility, or a possibility based on the facts.¹⁵ LRWS chose not to address whether there is an objective possibility that disclosure of the specified portions of Records 4 and 5 could lessen their effectiveness. But

¹⁵ [*Saskatchewan Government Insurance v Giesbrecht*, 2025 SKCA 10](#) at paras [62] to [80]. In this ruling the Court of Appeal is considering the word “could” within the context of section 38(1)(f) of the *Health Information Protection Act*, SS 1999, c. H-0.021, as amended, but the substance of the meaning is relevant to this analysis.

upon our review of the content and considering the context in which an OHO would use these techniques and procedures, it seems obvious that disclosure would lessen their effectiveness. Disclosure “could” do this. The third part of the test is met.

- [32] There will be a finding that LRWS properly applied section 15(1)(e) of FOIP to page 3 of Record 4 and from the top of page 2 to the top of page 4 of Record 5. There will be a recommendation that LRWS continue to withhold these portions of Records 4 and 5 pursuant to section 15(1)(e) of FOIP.

4. Did LRWS meet its obligations pursuant to section 8 of FOIP?

- [33] Final comment is saved for the method with which LRWS approached the review of Part B of the Applicant’s access request. Section 8 of FOIP provides as follows:

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

- [34] A government institution is required to adopt a line-by-line review of a record to comply with the principle of severability set out in section 8 of FOIP. Applicants have a right of access to records from which material can reasonably be severed. When a government institution applies its exemptions in a blanket manner, it should then go back and consider whether portions of the records, such as title headings and subject lines, are caught by the claimed exemption and how.¹⁶

- [35] LRWS did not speak to section 8 of FOIP in its submission. LRWS withheld Records 1 through 7 in full. Even if LRWS had properly applied section 15(1)(e) of FOIP to these records, it could have reasonably released portions of each policy that do not reveal substance. Such portions could include the policy/procedure titles and the dates the policies came into effect, the names of the government officials who approved the policies, the legal

¹⁶ See OIPC [Review Report 093-2024](#) at paragraphs [37] and [38].

authorities, and where the policies apply. This would all be possible if it is clear that releasing such portions would not reveal the substance of what should be withheld. At the very least, releasing portions of a record that are neutral proves that the record does exist, and that the holder of the record is responsive to the access request. Pursuant to section 65 of FOIP, government institutions are to take reasonable steps to make their policies and procedures available online, after severing any information that may be exempt from disclosure.¹⁷

- [36] There will be a finding that LRWS didn't meet its obligations pursuant to section 8 of FOIP. Going forward, I encourage LRWS to be mindful of its obligation pursuant to section 8 of FOIP.

III FINDINGS

- [37] OIPC has jurisdiction to conduct an investigation.
- [38] LRWS did not properly respond to the Applicant pursuant to section 7(2)(b) of FOIP.
- [39] LRWS has not properly applied section 15(1)(e) of FOIP to Records 1 through 7 except for page 3 of Record 4 and from the top of page 2 to the top of page 4 of Record 5.
- [40] LRWS did not meet its obligation pursuant to section 8 of FOIP.

IV RECOMMENDATIONS

- [41] I recommend that, within 30 days of the issuance of this Report, LRWS undertake a search for Acts and regulations that granted its "power and authority" between 2016 and 2017 and issue a new section 7 decision if necessary.

¹⁷ OIPC has recommended in numerous reports, including [Review Report 042-2019](#) and [Review Report 206-2019](#), that public bodies make reasonable efforts to make policies and procedures used in decision-making processes publicly available as required by section 65 of FOIP.

[42] I recommend that in the future LRWS provide links to specific documents when responding to access requests pursuant to section 7(2)(b) of FOIP.

[43] I recommend that, within 30 days of the issuance of this Report, LRWS release Records 1 through 7 to the Applicant except for: page 3 of Record 4 and from the top of page 2 to the top of page 4 of Record 5 which are properly severed.

Dated at Regina, in the Province of Saskatchewan, this 26th day of June, 2025.

Grace Hession David
Saskatchewan Information and Privacy Commissioner