



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 152-2024

Saskatchewan Cancer Agency

February 18, 2025

Summary:

The Applicant made a five-part access to information request to the Saskatchewan Cancer Agency's (SCA) under *The Local Authority Freedom of Information and Protection of Privacy Act*. The SCA responded to the request by releasing some records and withholding records or portions of records. The Applicant requested a review of that decision. Then, the Applicant requested a review of SCA's search. Review File 152-2024 was opened to process the review of SCA's search efforts. In this review, the A/Commissioner found that the SCA did not conduct a reasonable search and did not comply with the duty to assist. The A/Commissioner recommended that, within 30 days of the issuance of this Report, the SCA review the records identified as non-responsive and duplicates and issue a section 7 decision to the Applicant with a copy to his office. The A/Commissioner also recommended that the SCA, within 30 days of issuance of this Report, conduct another search for two meeting summaries and issue a section 7 decision to the Applicant with a copy to his office.

I BACKGROUND

- [1] This Report considers the Applicant's claim that, in responding to a five-part access to information request, the Saskatchewan Cancer Agency (SCA) did not conduct a reasonable search for records.
- [2] The Applicant's access to information request was made on December 1, 2023, under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Applicant paid the \$20.00 application fee on the same day.

[3] Following discussions between the parties, the request was clarified on December 28, 2023, to read as follows:

Request #1: All letters and/or correspondence, in electronic form or otherwise, sent by employees at the Saskatchewan Cancer Agency to Chief Executive Officer, Vice President Care Services, Director of Oncology Pharmacy Services and the Ombudsman, that reference me by my name (Applicant's name and initials redacted) and or that reference my employment at the Saskatchewan Cancer Agency.

Time frame: October 03, 2022 - October 31, 2022

Request #2: All correspondence, in electronic form or otherwise, sent or received between staff and employers and/or sent or received between staff at the Saskatchewan Cancer Agency that include reference to me by name [Applicant's name and initials redacted] and/or that include reference to my employment at the Saskatchewan Cancer Agency and/or a reference to the harassment complaint filed by me, and/or a reference to my leave.

Time frame: All correspondence in your possession inclusive of, and after the date of, October 3, 2022.

Request #3: All records, in electronic form or otherwise that include reference to me by name [Applicant's name and initials redacted] and/or that reference the letters identified in Request #1 and/or that include reference to my employment at the Saskatchewan Cancer Agency and/or that include reference to the harassment complaint filed by me.

Time Frame: All correspondence in your possession inclusive of, and after the date of, October 3, 2022

Request #4: All records and/or correspondence, electronic or otherwise, that include reference to the November 23, 2022 meeting which included attendees [names redacted] and myself and/or that were produced at, or as a result of this meeting.

Time Frame: All records in your possession inclusive of, and after the date, of November 23, 2022.

Request #5: All records, in electronic form or otherwise, contained in my personnel file.

Time Frame: All records in your possession.

- [4] The SCA issued a decision pursuant to section 7 of LA FOIP on March 14, 2024, withholding records and portions of records under LA FOIP.
- [5] On April 4, 2024, the Applicant filed a request for a review of that decision with my office. My office opened Review File 101-2024 to process the review and issued [Review Report 101-2024](#) on December 3, 2024.
- [6] During that review, the Applicant filed a second request for a review related to SCA's search efforts. They claimed that the SCA did not conduct a reasonable search for records when it responded to their five-part request. My office opened Review File 152-2024 to process this second request for a review.
- [7] On June 11, 2024, the Applicant provided my office with a three-page document explaining why they thought additional records must exist. They consented to my office sharing this document with SCA.
- [8] On June 11, 2024, my office sent notices of review to the Applicant and to the SCA inviting them to provide my office with a submission. At the same time, my office provided the SCA with the Applicant's document explaining why they believed that additional records must exist.
- [9] On July 8, 2024, the Applicant provided their submission to my office.
- [10] On July 18, 2024, the SCA provided its submission to my office. It did not consent to sharing the submission with the Applicant.

II RECORDS AT ISSUE

- [11] As the only issue in this matter is whether the SCA conducted a reasonable search for records, there are no records at issue.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[12] “Local authority” is defined in subsection 2(1)(f)(xvii) of LA FOIP as any board, commission or other body that is prescribed.

[13] Subsection 3(2), read together with Appendix PART II, of *The Local Authority Freedom of Information and Protection of Privacy Act Regulations* prescribes the SCA as a local authority. Therefore, the SCA qualifies as a “local authority.” I find that I have jurisdiction to conduct this review.

2. Did the SHA conduct a reasonable search for records?

[14] As noted above, the only issue raised by the Applicant in this review is whether the SCA conducted a reasonable search for records. The requirement to conduct a reasonable search is set out in subsection 5.1(1) of LA FOIP.

[15] Subsection 5.1(1) of LA FOIP requires a local authority to respond to an applicant’s access to information request openly, accurately and completely. This means that local authorities should make reasonable efforts to not only identify and seek out records responsive to an applicant’s access to information request, but to explain the steps in the process (*Guide to LA FOIP*, Chapter 3, “Access to Records”, updated May 5, 2023 [*Guide to LA FOIP*, Ch. 3], p. 12).

[16] Subsection 5.1(1) of LA FOIP states:

5.1(1) Subject to this Act and the regulations, a local authority shall respond to a written request for access openly, accurately and completely.

[17] The threshold to be met is one of “reasonableness.” In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable.

[18] A reasonable search is one in which an employee, experienced in the subject matter of the records, expends a reasonable effort to locate records which are reasonably related to the request. A reasonable effort is the level of effort you would expect of any fair, sensible person searching for records in areas where they are likely to be stored. What is reasonable depends on the request and related circumstances (*Guide to LA FOIP*, Ch. 3, p. 12).

[19] When an applicant requests a review of a local authority’s search efforts, the local authority should provide my office with detailed information about its efforts to conduct a search. The following examples of the type of information that can be provided to my office are relevant here:

- For personal information requests – explain how the individual is involved with the local authority (i.e., client, employee, former employee etc.) and why certain departments/divisions/branches/committees/boards were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches/committees/boards included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and explain how the employee(s) is experienced in the subject matter.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.
- Describe how records are classified within the records management system. For example, are the records classified by alphabet, year, function, and subject
- Consider providing a copy of your organization’s record schedule and screen shots of the electronic directory (folders & subfolders).
- Explain how you have considered records stored off-site.
- Explain how a search of mobile electronic devices was conducted (i.e., laptops, smart phones, cell phones, tablets).

- Explain which folders within the records management system were searched and how these folders link back to the subject matter requested. For electronic folders – indicate what key terms were used to search if applicable.
- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee’s search.
- Consider having the employee that is searching provide an affidavit to support the position that no record exists or to support the details provided. For more on this, see my office’s resource, [*Using Affidavits in a Review with the IPC*](#).

(Guide to LA FOIP, Ch. 3, pp. 14 - 15)

[20] The SCA asserted that its Privacy Officer contacted the Applicant on December 7, 2023, to have discussions about the scope of the request and to clarify the request. Following further communications, on December 28, 2023, the Applicant amended the request.

[21] The SCA stated that the Applicant and their legal counsel insisted that many of the searches be conducted electronically by SCA’s Information Management Services Team (IMS) as opposed to asking individuals to search and provide relevant records. According to the SCA, the Applicant was concerned that if other employees were involved, there was a risk that responsive records would be destroyed.

[22] The SCA stated that on January 10, 2024, legal counsel for the Applicant and the SCA had a discussion about the search strategy where it was confirmed that the SCA would search the electronic records of approximately 60 employees and that only the employees named in the request would search their own records. The SCA stated that the search strategy was set out in its letter to the Applicant’s lawyer dated February 2, 2024, which described the search strategy as follows:

As we have discussed, we have developed and continue to implement a search strategy that encompasses the electronic communications for approximately 60 employees in the Saskatoon pharmacy, as well as other “non-Saskatoon” pharmacy employees

identified as having responsive records. We have also actively engaged in a search strategy for the other records (electronic or otherwise) as identified in your client's request. We have identified approximately 1.2 million records to which filters and further refinements must be applied to identify the responsive records.

[23] Following these communications, SCA determined that the amended search criteria involved records of approximately 72 employees spanning over 14 months. The search strategy required an electronic search for records of a large group of employees by IT staff, as well as a manual and electronic searches of the records of a smaller group of employees to be conducted by those employees.

[24] In its submission, the SCA provided my office with the following general information about its search efforts:

- Experienced members of eHealth's IT team (for Webex messages) and SCA's IMS were engaged to help with extracting electronic records and moving them to a secure search environment. This required new software tools and additional staff training for which the Applicant was not charged.
- Approximately 1.25 million electronic records (Webex and email) were identified, comprising over 370 GB of data. These records were then specifically searched using the key word "Ombudsman."
- The SCA then conducted a search of all the electronic records using the Applicant's name and initials as set out in the amended request. These searches resulted in approximately 900 Webex and 28,000 email records that required further review.

[25] The SCA added that:

Unresponsive emails (generic group emails, out of office replies, meeting accept/decline notifications, routine/daily huddle invitations, employees with same names/initials, routine work emails from other employees, etc.) then had to be filtered out. A large number of "duplicate emails" (emails that were forwarded and/or then re-forwarded) from various users also had to be considered and manually removed (if deemed applicable).

[26] The SCA stated that a search request and instructions were sent to 13 employees, including the CEO, VP Corporate Services, VP Care Services, General Counsel, Director of Pharmacy, provincial pharmacy managers and HR staff. They were given instructions to

search for other records in any format (e.g., text messages, audio recordings, handwritten notes, electronic files, etc.) that may be responsive to the request.

[27] These 13 employees were advised that the access request was, in itself, confidential information and the name/request of the Applicant was not to be disclosed or discussed. They were asked to complete a “manual search form” which asked the employees to affirm in writing that all responsive records were searched, included, and no records were destroyed, withheld, or altered. All of the records were scanned into an electronic format and were manually reviewed for responsiveness.

[28] In their submission, the Applicant claimed that a reasonable search was not conducted. They explained that summaries of two meetings that occurred on November 23 and 24th should exist as it was the normal practice of management to prepare meeting summaries. Regarding a breach of policy complaint that they filed, they stated that it appears that a decision was made not to investigate that. They believe that records regarding that decision should exist.

[29] As noted in the Background section of this Report, the Applicant also provided my office with 13 specific examples of information that they believed was missing. My office provided this information to the SCA and asked it to respond to the Applicant’s comments. The Applicant’s concerns are set out below followed by SCA’s response to those concerns.

a. Missing Webex messages and missing portions of the Webex conversation threads

[30] The Applicant stated that the pharmacy department relies heavily on Webex, and it is used over other forms of communication such as telephone, email and text.

[31] The SCA stated that Webex messages were retrieved by eHealth’s IT team from the backup server where they are saved as unique messages and based on the time they arrive at the server. They are not saved with the other portions of the conversation thread. Therefore, what a Webex user sees as a potentially coherent thread of conversations is actually a sequence of individually received records. This is because a unique record is created each time a user hits “enter” on their keyboard to send a message. The only way to retrieve

Webex conversation threads would be to ask the relevant staff to conduct a search of their work computers to retrieve any messages that may be still available and then take a screen shot of the conversation.

[32] The list of employees with Webex records included 64 pharmacy staff and eight other employees for the designated time period. Over 302,000 Webex messages were retrieved by eHealth. These were searched using the Applicant's name and initials as specified by the Applicant and the word "Ombudsman." This resulted in 900 Webex messages.

[33] Non-responsive Webex messages were set aside such as non-responsive messages that included codes or short forms for words that were similar to the Applicant's name and/or initials.

[34] The SCA concluded by stating that if more responsive records existed, they would have been provided subject to exemptions.

b. Missing portions of Webex conversation regarding Applicant's leave

[35] The Applicant said that the other portions of a Webex conversation thread about their leave of absence were missing. Although not within the scope of this review, the Applicant expressed concern that the Webex message that was released to them revealed that the SCA had informed pharmacy staff that they were on leave.

[36] Regarding the allegation of the missing Webex thread, the SCA asserted that the search criteria were applied as set out in its submission which is summarized above. If no record was disclosed, the search did not produce a record or, if it did, it was redacted pursuant to LA FOIP.

[37] Regarding the knowledge of other staff about the leave, the SCA explained that the pharmacy department was advised that the Applicant was on leave as it was actively recruiting to backfill that position on an interim/undetermined basis.

- c. Missing Webex conversation on October 28, 2022, that references the Applicant
- [38] SCA stated that there were four Webex conversations that occurred on October 28, 2022, between the parties identified by the Applicant. SCA stated that the messages appeared to reference a report (e.g., safety report) that one employee was entering about themselves in the incident management system.
- [39] The SCA repeated its claim that search criteria were applied as described in its submission and no other records were found or records were withheld pursuant to LA FOIP.
- d. Missing records of communication between frontline staff in Saskatoon regarding the announcement of technician manager hire in October 2022
 - e. Missing records of communication between the manager and their staff on the same subject
- [40] The SCA repeated its claim that search criteria were applied as described in its submission and no records were found or records were withheld pursuant to LA FOIP.
- f. Missing email sent by Applicant asking for “mediated sit down” and the responses to that email and the records of communication that lead to the decision to have mediation to deal with “similar situations in the future”
- [41] The SCA stated that the original email from the Applicant requesting a “mediated sit down” was included in the records released and referred to in Review Report 101-2024 but not the subsequent email thread. The released email was identified as Batch 1: Page 83, 119, 126, 127, Batch 2, page 121.
- [42] While preparing the submission in this review, SCA found the other parts of the email thread. SCA explained that the failure to find the subsequent thread was an unintentional and an unfortunate error and apologized. During the review, the SCA issued another section 7 decision and released the record to the Applicant.

[43] Regarding the decision to have mediation in the future, SCA repeated its claim that search criteria were applied as described in its submission and no records were found or records were withheld pursuant to LA FOIP.

g. Missing text messages. Only one text message was produced, and the other text messages that were part of the conversation thread were not found

[44] The SCA stated that pursuant to the Applicant's and their lawyer's requests, it did not approach all individual employees in the pharmacy area to search their records. Of those who were approached, the search criteria were applied as set out in its submission. If there was no record disclosed, the search did not produce a responsive record, or if it did, it was redacted pursuant to legislative authority.

[45] SCA stated again that individuals who manually and electronically searched their own records signed a declaration that all SCA records responsive to the request (including text messages) had been searched for and provided, and that no records had been altered or destroyed.

[46] It added that texting is described in SCA's policy as "not an ideal form of communication." Staff are advised during training that text messages are subject to access to information requests.

h. Missing records relating to the decision "not to investigate the breach of policy" portion of the Applicant's complaint

[47] The Applicant stated that the records leading up to the decision "not to investigate the breach of policy portion" of their complaint are missing.

[48] SCA stated that there are no records leading to this decision. It added that the record referred to by the Applicant stated that "the SCA did not **hire the investigator** to conduct the 'investigation into breach of policy,' not that a decision was made not [to] investigate the breach of policy portion." [Original emphasis]

[49] The SCA added that if no records were produced regarding this inquiry, then the search did not produce a record, or if it did, it was redacted pursuant to legislative authority.

i. Missing “other letters” sent after the Applicant went on leave

[50] SCA stated that these letters were included in the responsive records package, but exemptions were applied. It provided the example of Emails Batch 1, page 325.

j. Missing the response to the email about posting the workplace assessment document on the shared drive

[51] SCA stated that the response is on page 210, Email Batch 3.

k. Missing records relating to the hiring of the technician manager in October 2022

[52] SCA stated that the search criteria were applied as set out in its submission. If no record was disclosed, the search did not produce a responsive record, or if it did, it was redacted pursuant to legislative authority.

l. Missing records from and between management, leadership and staff on or after the November 23 to 24, 2022 meetings with [name redacted]; and

m. Missing summaries of the meetings that occurred on those dates and in particular the summary of the November 24, 2022 meeting that is referred to in an email thread sent on January 26, 2023 at 8:07.

[53] The Applicant was not able to provide my office with a copy of the January 26, 2023 email they referred to because they did not have a copy. They were made aware of it by someone else and on that basis, they believed that a meeting summary for the November 24, 2022 meeting exists.

[54] The SCA’s response to this concern was that any responsive records were either disclosed to the Applicant or redacted pursuant to legislative authority.

Analysis

- [55] Before I turn to address the Applicant's specific concerns, I note that the SCA's search for records identified approximately 2,200 pages of records. Of those, there were approximately 1,400 pages at issue in Review Report 101-2024. SCA's explanation of its search efforts included details such as background information about its records management system; how records holdings were searched including records stored offsite; explanations for which staff were involved in the search and why they were selected to do the search; and the keywords used to complete electronic searches. SCA also explained in its submission that it requested that staff involved in the search complete declarations regarding the scope of their search and confirm that all records were produced. My office was provided with a copy of the declaration form.
- [56] However, the SCA did not provide a reasonably detailed explanation or response to the Applicant's concerns about the meeting summaries described in paragraphs [53] and [54] above. For example, it did not explain why the practice of completing meeting summaries, which the Applicant believed was customary, was or may not have been followed for these two meetings. Given that the Applicant stated that it was normal practice for meeting summaries to be prepared, I would have expected the SCA to offer some explanation as to why the practice was not followed in this case.
- [57] I have taken into consideration that the Applicant was unable to provide my office with a copy of the email dated January 26, 2023, which purportedly mentions one of the summaries. However, I have also considered that good information management practices in most organizations would require the completion of meeting minutes or summaries. In these circumstances, the SCA's bald assertion that the records were not found during its search or were either disclosed to the Applicant or redacted pursuant to legislative authority is not persuasive.
- [58] Given the nature of the records and the Applicant's claims about the usual practice of the SCA, I find that a reasonable search for these records was not conducted. I recommend that

the SCA, within 30 days of the issuance of this Report, conduct another search for the November 23 and 24, 2022 meeting summaries and issue a section 7 decision to the Applicant with a copy to my office.

[59] I have two other concerns about SCA's approach to its search for responsive records. They relate to its treatment of non-responsive records and duplicate records.

[60] First, the SCA stated that it treated as non-responsive records such as "generic group emails, out of office replies, meeting accept/decline notifications, routine/daily huddle invitations, employees with same names/initials, routine work emails from other employees, etc."

[61] In determining what records are responsive to a request, local authorities should apply the definition of "responsive" set out in my office's *Guide to LA FOIP*, Ch. 3 at page 26, which states that "responsive" means relevant. The term describes anything that is 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 'not responsive.

[62] Local authorities may treat portions of a record as not responsive if they are clearly separate and distinct and entirely unrelated to the access to information request (*Guide to LA FOIP*, Ch. 3, p. 27).

[63] The scope of the Applicant's access to information request appears to be sufficiently broad to include group emails, appointment notices and routine/daily huddle invitations and emails because it refers to all records and correspondence. There does not appear to be anything in the way in which the Applicant described the request that would support withholding what the SCA described as "generic" or "routine emails."

[64] Where the local authority has any questions about whether the applicant seeks access to records, it should raise those questions with the applicant during the request stage as part

of its duty to assist required by subsection 5.1(1) of LA FOIP. I will address this later in this Report.

[65] I find that the decision to treat the records described in paragraph [60] above as non-responsive was not appropriate. I recommend that the SCA, within 30 days of the issuance of this Report, review the records referred to in paragraph [60] and issue a section 7 decision to the Applicant regarding those records with a copy to my office.

[66] In arriving at its decision pursuant to section 7 of LA FOIP, the SCA should be mindful of the advice provided in my blog, "[What About the non-Responsive Record?](#)" where I recommended the release of non-responsive information and records subject to exemptions that may apply. I also explained that unnecessary severing can cause applicants to be suspicious that something is hidden.

[67] My second concern relates to SCA's decision to withhold duplicate records and not treat them as responsive to the request. Where there are duplicate records, a local authority should provide those to the applicant subject to any exemptions that are found to apply. If a local authority is going to leave out duplicates, one aspect of its duty to assist is to provide the applicant with an explanation for doing so. I will address this later in this Report.

[68] Consistent with the approach taken by my office in similar circumstances, such as those in [Review Report 130-2020](#) and [Review Report 301-2023](#), I recommend that the SCA, within 30 days of the issuance of this Report, determine if the Applicant seeks access to the duplicate copies of the responsive records not already released and if they do, issue a section 7 decision to the Applicant regarding those records with a copy to my office.

3. Did the SCA comply with its duty to assist?

[69] The SCA's treatment of the records described in paragraph [60] above as non-responsive records and its management of duplicates raises an issue about compliance with the duty

to assist in subsection 5.1 of LA FOIP. Section 5.1 of LA FOIP is set out in paragraph [16] above.

[70] As explained in my office's resource [Understanding the Duty to Assist](#), updated August 2024, at page 4:

Responding openly to an applicant requires a local authority to be transparent by providing an explanation of the processes, actions, and decisions taken to fulfill an access request, including the basis for fees being charged in relation to an access request.

[71] It is apparent that the SCA made efforts to clarify the request and to reach an agreement with the Applicant on the search strategy. It is a best practice for a public body to contact the applicant and work together to clarify or narrow the scope of the request where a large fee may ensue (see my office's [Best Practices for Responding to Access Requests](#)). I also recognize that the volume of records that the SCA identified as responsive and released subject to exemptions was significant.

[72] However, the SCA should have clarified with the Applicant how they wanted it to treat the types of records described in paragraph [60] above. For example, the SCA could have asked the Applicant if they wanted access to appointment notices and group emails.

[73] The SCA should also have clarified how the Applicant wanted it to treat duplicate records. An applicant may insist on receiving duplicates and be prepared to pay any appropriate fee associated with their release. It appears as though the SCA did not have this discussion with the Applicant.

[74] In failing to discuss the management of non-responsive records described in paragraph [60] and the duplicates with the Applicant, SCA did not comply with its duty to assist in section 5.1 of LA FOIP. Therefore, I find that the SCA did not fulfill its duty to assist.

IV FINDINGS

[75] I find that I have jurisdiction to conduct this review.

[76] I find that the SCA did not conduct a reasonable search for records.

[77] I find that SCA did not fulfill its duty to assist.

V RECOMMENDATIONS

[78] I recommend that the SCA, within 30 days of the issuance of this Report, conduct another search for the November 23 and 24, 2022 meeting summaries and issue a section 7 decision to the Applicant with a copy to my office.

[79] I recommend that the SCA, within 30 days of the issuance of this Report, review the records referred to in paragraph [60] and issue a section 7 decision to the Applicant regarding those records with a copy to my office.

[80] I recommend that the SCA, within 30 days of the issuance of this Report, determine if the Applicant seeks access to the duplicate copies of the responsive records not already released and if they do, issue a section 7 decision to the Applicant regarding those records with a copy to my office.

Dated at Regina, in the Province of Saskatchewan, this 18th day of February, 2025.

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