



## **INVESTIGATION REPORT 298-2018**

### **Rural Municipality of Blaine Lake #434**

**April 5, 2019**

**Summary:**

On January 15, 2019, the Commissioner notified the Rural Municipality of Blaine Lake #434 (R.M.) of its intention to investigate the privacy concerns of the Complainant. As the R.M. could not provide the necessary information to the Commissioner, the Commissioner found that he was unable to investigate the concerns of the Complainant. The Commissioner also found that the R.M. did not have a privacy breach protocol in place and therefore the R.M. did not have appropriate administrative safeguards in keeping with the duty to protect obligations of section 23.1 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Commissioner recommended that the R.M. develop and implement a privacy breach protocol in line with his office's *Privacy Breach Guidelines*.

## **I BACKGROUND**

[1] On January 8, 2019, I issued Review Report 223-2018, involving the Rural Municipality of Blaine Lake #434 (R.M.). In that report, I indicated that I would proceed with conducting an investigation pertaining to the privacy concerns outlined in the Applicant's letter to the R.M. dated August 22, 2018. I also encouraged the R.M. to begin conducting an internal investigation based on the Applicant's privacy concerns, in anticipation of this privacy breach investigation. For the purposes of this investigation report, the Applicant from Review Report 223-2018 will be referred to as the "Complainant".

[2] On January 15, 2019, my office notified the R.M. of its intention to investigate the privacy concerns of the Complainant pursuant to PART VI of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). In the notification, my office requested that the R.M. provide the following information, in the form of a submission, by January 30, 2019:

1. The Complainant indicated in their letter to your office that computers in the control and possession of the R.M. may have been compromised. Please provide details of this incident, if it occurred. Please provide details in the form of an investigation report, in line with our office's [Privacy Breach Guidelines for Government Institutions and Local Authorities](#) available on our website. If computers were not compromised, please provide us with a confirmation that such an incident did not occur.
2. Please provide a copy of your office's privacy breach protocol and copies of any other relevant policies and/or procedures and/or agreements (or plans to develop these) related to the management of privacy breaches and the protection of personal information.
3. The Complainant indicated in their letter to your office that on February 06, 2016 all councilors received an email requesting their Social Insurance Numbers (SINs). Please provide details of why the Complainant's SIN was requested at that time, what the intended use of this information was, whether it was shared with anyone or any other office, how it was collected and where the information was stored. Please ensure that any information provided regarding the collection, use, disclosure and retention of the Complainant's SIN is supported by copies of your office's policies and procedures to protect personal information, if such policies exist. If such policies do not currently exist, please confirm and provide us the requested information nonetheless.
4. Our office expects local authorities subject to LA FOIP to respond to privacy concerns submitted to them by individuals within approximately thirty days. The thirty-day deadline, while not specified in LA FOIP, provides local authorities a reasonable amount of time to conduct an internal investigation into an alleged privacy breach and respond to the individual making the allegation. Please provide an explanation as to why the R.M. has not responded to the Complainant's privacy concerns, outlined in their August 22, 2018 letter to your office.

## **II DISCUSSION OF THE ISSUES**

### **1. Does my office have jurisdiction?**

[3] The R.M. is a local authority pursuant to subsection 2(f)(i) of LA FOIP. Therefore, I have jurisdiction to conduct this investigation.

**2. Did any privacy breaches occur? If so, did the R.M. appropriately manage the privacy breaches?**

[4] To date, the R.M. has not provided my office with sufficient information regarding the privacy complaints of the Complainant. I note that the R.M. also did not respond to my office's Review Report 223-2018 within 30 days of issuance, in accordance with section 45 of LA FOIP.

[5] The R.M. has recently hired a new Administrator who attempted to locate additional information and records to assist my office with this investigation. However, according to the new Administrator, the old Administrator did not keep proper records so the new Administrator could not assist my office in this case. The new Administrator has indicated that they will be addressing the R.M.'s current recordkeeping practices so that the R.M. can maintain appropriate records related to concerns and requests from citizens and my office. The new Administrator will also explore ways to improve the R.M.'s cooperation with my office. In this regard, my office is pleased to note the positive improvements that the new Administrator will make. I recommend that the new Administrator consult my office's online resources for public bodies available at [www.oipc.sk.ca](http://www.oipc.sk.ca), under the Resources tab, which contain best practices to enhance access rights of individuals and efficiencies in the process. I recommend the new Administrator also consult my office's *Rules of Procedure*, available at <https://oipc.sk.ca/resources/rules-of-procedure/>, which clarifies the processes used by my office in a review or investigation.

[6] Unfortunately, because the R.M. cannot provided my office with the information requested on January 15, 2019, I find that I am unable to proceed with investigating the Complainant's privacy concerns.

[7] Before leaving, the previous Administrator did confirm to my office that the R.M. does not have a privacy breach protocol in place. As stated in my office's *Privacy Breach Guidelines*, available at <https://oipc.sk.ca/assets/privacy-breach-guidelines-for-government-institutions-and-local-authorities.pdf>, the duty to protect obligations of section 23.1 of LA FOIP requires, among other things, that local authorities have administrative safeguards that protect personal information. Administrative safeguards are controls that focus on internal policies and procedures, like privacy breach protocols that define what privacy breaches are and the steps involved in responding to alleged or actual privacy breaches. By not having a privacy breach protocol, I find that the R.M. has not established appropriate administrative safeguards in keeping with the duty to protect obligations of section 23.1 of LA FOIP. I recommend that the R.M. develop and implement a privacy breach protocol, in line with my office's *Privacy Breach Guidelines*.

### **III FINDINGS**

[8] I find that the R.M. has not appropriately responded to my office when it was notified that an investigation was underway pursuant to PART VI of LA FOIP.

[9] Because the R.M. has not responded to my office, I am unable to proceed with investigating the Complainant's privacy concerns.

[10] By not having a privacy breach protocol, I find that the R.M. has not established appropriate administrative safeguards in keeping with the duty to protect obligations of subsection 23.1 of LA FOIP.

### **IV RECOMMENDATIONS**

[11] I recommend that the new Administrator consult my office's online resources for public bodies, which contain best practices to enhance access rights of individuals and efficiencies in the process.

[12] I recommend the new Administrator also consult my office's *Rules of Procedure*, which clarifies the processes used by my office in a review or investigation.

[13] I recommend that the R.M. develop and implement a privacy breach protocol, in line with my office's *Privacy Breach Guidelines*.

Dated at Regina, in the Province of Saskatchewan, this 5<sup>th</sup> day of April, 2019.

Ronald J. Kruzeniski, Q.C.  
Saskatchewan Information and Privacy  
Commissioner