



REVIEW REPORT 156-2016

Town of Kindersley

September 26, 2016

Summary: The Applicant submitted a freedom of information request to the Town of Kindersley (the Town). The Applicant believed she did not receive all the responsive records. Therefore, she appealed to the Information and Privacy Commissioner (IPC). The IPC found that the Town conducted an adequate search for records.

I BACKGROUND

[1] On April 15, 2016, the Town of Kindersley (the Town) received the following freedom of information request:

Any declarations of conflict of interest that employees of the Town of Kindersley have declared under the New Municipal Conflict of Interest Rules.

[2] In a letter dated May 13, 2016, the Town responded to the Applicant's request by stating the she can pick up the records.

[3] On June 16, 2016, the Applicant requested a review by my office. She asserted that she believed the response was not complete. In other words, she believed she did not receive all the responsive records.

[4] On June 20, 2016, my office notified both the Town and the Applicant that it would be undertaking a review.

II RECORDS AT ISSUE

[5] At issue is whether the Town made a reasonable effort to search for records. Therefore, there are no records at issue.

III DISCUSSION OF THE ISSUES

[6] The Town qualifies as a “local authority” as defined by subsection 2(f)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

1. Did the Town make a reasonable effort to search for records?

[7] My office requested the Town describe its search efforts so that my office can determine whether or not the Town made a reasonable effort to search for records. Public bodies can provide the following information in describing its search efforts:

- Outline the search strategy conducted:
 - For personal information requests – explain how the individual is involved with the public body (i.e. client, employee, former employee etc.) and why certain departments/divisions/branches were included in the search;
 - For general requests – tie the subject matter of the request to the departments/divisions/branches 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
 - subject
 - Consider providing a copy of your organizations record schedule and screen shots of the electronic directory (folders & subfolders).

- If the record has been destroyed, provide copies of record schedules and/or destruction certificates;
- Explain how you have considered records stored off-site.
- Explain how records that may be in the possession of a third party but in the public body's control have been searched such as a contractor or information service provider. For more on this, see the OIPC resource, *A Contractor's Guide to Access and Privacy in Saskatchewan* available on our website.
- Explain how a search of mobile electronic devices was conducted (i.e. laptops, smart phones, cell phones, tablets).
- Which folders within the records management system were searched and explain how these folders link back to the subject matter requested?
 - For electronic folders – indicate what key terms were used to search if applicable;
- On what dates did each employee search?
- How long did the search take for each employee?
- What were the results of 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 the OIPC resource, *Using Affidavits in a Review with the IPC* available on our website.

[8] The above is a non-exhaustive list and is meant to be a guide only. Each case will require different search strategies and details depending on the records requested.

[9] In its submission dated August 3, 2016, the Town advised my office that it searched through both personnel files and through electronic copies of minutes from October 19, 2015 to the current date for any declarations of conflict of interest made by employees.

[10] The Town searching through council meeting minutes from October 19, 2015 appears to be reasonable. On October 19, 2015, the Government of Saskatchewan introduced legislative amendments to improve conflict of interest rules for municipal governments.

[11] Further, my office's review of the Town's Bylaw 03-16, A Bylaw to Regulate the Proceedings of the Council and Committees of Council of the Town of Kindersley. Subsection 17(4) of this bylaw provides that declarations of conflict of interest are within the order of business for council meetings. Subsection 17(4) of this bylaw provides:

17(4) The Order of Business shall be as follows:

- (a) Call to Order
- (b) Adoption of Agenda
- (c) Declaration of Conflict of Interest
- (d) Council In Camera Session (5:00 pm)
- (e) Council Public Session (7:00 pm)
- ...
- (f) Consent Agenda
- ...

[12] Therefore, if there were any declaration of conflict of interest by council members during a council meeting, then such declarations would have been captured in the meeting minutes. I find that searching through the council meeting minutes from October 19, 2015 to be reasonable.

[13] Further, for Town employees, I find it reasonable that the Town searched through employee personnel files to determine if there are any records of employees who have declared a conflict of interest. Based on its May 13, 2016 letter to the Applicant, the Town located one declaration that was made by a Senior Bylaw Officer. The Town provided this record to the Applicant.

[14] Therefore, I find that the Town has conducted an adequate search for records.

[15] On July 21, 2016, the Applicant advised my office that she believes there to be a conflict of interest that exists for a particular council member but that he has not declared his conflict of interest. This is an issue that is beyond what my office can review. I suggest that the Applicant can contact Ombudsman Saskatchewan for advice on how to deal with this matter.

IV FINDING

[16] I find that the Town has conducted an adequate search for records.

V RECOMMENDATION

[17] I do not have any recommendations for the Town.

Dated at Regina, in the Province of Saskatchewan, this 26th day of September, 2016.

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