

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2019-23

June 25, 2019

WORKERS' COMPENSATION BOARD

Case File Number 002744

Office URL: www.oipc.ab.ca

Summary: The Complainant made a complaint to the Commissioner that the Workers' Compensation Board (the Public Body) had disclosed his personal information in contravention of Part 2 of the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) when it sent his medical information and its reasons for refusing his claim to the company that employed him, and the information was subsequently "passed around to various people in the company".

The Adjudicator found that the disclosure was not authorized by a provision of Part 2 of the FOIP Act. She directed the Public Body not to disclose the Complainant's personal information in contravention of Part 2 of the FOIP Act in the future.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 17, 40, 68, 72; *Workers' Compensation Act*, R.S.A. 2000, c. W-15, ss. 44, 147

Authorities Cited: AB: Orders F2005-027, F2006-026, F2009-041, F2011-006, F2013-11, F2013-52

I. BACKGROUND

[para 1] On March 21, 2016, the Complainant made a complaint to the Commissioner that the Workers' Compensation Board (the Public Body) had disclosed

his personal information in contravention of Part 2 of the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) when it sent his medical information and its reasons for refusing his claim to the company that employed him and the information was subsequently “passed around to various people in the company”.

[para 2] The Commissioner authorized a senior information and privacy manager to investigate and attempt to settle the matter under section 68 of the FOIP Act. At the conclusion of this process, the Complainant requested an inquiry. The Commissioner agreed to conduct an inquiry and delegated her authority to conduct it to me.

II. ISSUE

Did the Public Body disclose the Complainant’s personal information? If yes, did it have authority to do so under sections 40(1) and 40(4) of the FOIP Act?

[para 3] Section 40(1) of the FOIP Act prohibits a public body from disclosing personal information except in the circumstances it prescribes. Section 40(1) states, in part:

40(1) A public body may disclose personal information only

[...]

(b) if the disclosure would not be an unreasonable invasion of a third party’s personal privacy under section 17,

(c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

[...]

(e) for the purpose of complying with an enactment of Alberta or Canada or with a treaty, arrangement or agreement made under an enactment of Alberta or Canada,

(f) for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure,

[...]

(l) for the purpose of determining or verifying an individual’s suitability or eligibility for a program or benefit [...]

[para 4] The Public Body’s letter of February 18, 2016 gave rise to this complaint. It is addressed to the Complainant and copied to the employer. A contact person at the

employer is not specified. The letter contains the reasons for the Public Body's decision to refuse the Complainant's claim. It states, in part:

You have underlying bilateral osteoarthritis of the elbows and right elbow epicondylitis. Both these conditions would cause activity-related pain, whether occupational or not. It is noted you were having pain when lifting your kid, which is not a work related activity.

I acknowledge you feel that the incident of July 25, 2015 is the cause of your current elbow symptoms, but based on the witness statement you did not sustain an injury as a result of the incident. Therefore I found the criteria under policy 02-01 and not been met to support you suffered a work place which arouse out of and occurred in the course of employment. [*sic*]

The foregoing letter contains the Complainant's personal information, as it contains details about his injury and medical injury, as well as the claim he made to the Public Body for compensation.

[para 5] The Public Body acknowledges that it sent the letter of February 18, 2016 containing the Complainant's personal information and that this letter was copied to the company employing the Complainant. However, the Public Body argues that the disclosure was authorized under section 40(1) (b), (c), (e), (f), or (l) of the FOIP Act. The Public Body argues:

The WCB has developed policies in keeping with its commitment to fair information practices and protection of personal information. Policy 01-02 Part I, Access and Privacy states The WCB recognizes privacy of personal information is a fundamental social value and is committed to protecting it. WCB also recognizes the importance of transparent decision-making processes and is committed to ensuring affected parties can access relevant information.

WCB collects, uses and discloses only information necessary to administer and interpret the *Workers' Compensation Act* (WCA) and only when authorized by the WCA, the *Freedom of Information and Protection of Privacy Act* (FOIP or the FOIP Act) and the Health Information Regulation.

This policy outlines the need to balance the protection of personal information with the need to provide relevant information to interested parties.

Business Procedure 4.2-5: Making an Entitlement Decision and Business Procedure 10.1 - Case Planning Model both provide direction to WCB employees on when to communicate information to employers regarding a claim. Business Procedure 4.2-5 provides guidance to WCB customer service staff on the decision making process, including stating in step 8 that every time an entitlement decision is made a letter must be sent to the worker with a copy to the employer.

Business Procedure 10. 1 (refer to Tab 2) discusses the case planning process. In the planning process, there are "milestones" or junctures at which point the worker and the employer are notified through written communication. These milestones include: when entitlement is determined, when the case plan is defined, when fitness to work has been determined, when the worker's return to work status has been confirmed and at the case plan conclusion. The employer is also contacted at any significant decision-making points throughout the claim.

Once it is determined if the injury or current difficulties are a result of a work related injury or are not work related, the appropriate actions are taken and the parties are advised of the entitlement decision as outlined in the above procedures.

The Letter was copied to [the corporation that employed the Complainant] to notify them of the decision made regarding [the Complainant's] claim, as required by section 44 of the WCA.

Section 44 of the WCA requires notice to both, the worker and the employer when a decision is made regarding entitlement to compensation under the WCA, regardless of whether or not the decision is to accept or deny the claim. Section 44 states:

44 On the making of a determination as to the entitlement of a worker or the worker's dependant to compensation under this Act, the employer and the worker or, in the case of the worker's death, the worker's dependant, shall, as soon as practicable, be advised in writing of the particulars of the determination, and shall, on request, be provided with a summary of the reasons; including medical reasons, for the determination.

[...]

Section 40 of the FOIP Act permits a public body to disclose personal information in certain circumstances, including when the disclosure is authorized or required by an enactment of Alberta or Canada. In this case, sections 40 (b), (c), (e), (f), and (l) permit the WCB to disclose personal information in the circumstance noted above. Sections 40(1)(b), (c), (e), and (l) state:

40(1) A public body may disclose personal information only

(b) if the disclosure would not be an unreasonable invasion of a third party's personal privacy under section 17

(c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

(e) for the purpose of complying with an enactment of Alberta or Canada or with a treaty, arrangement or agreement made under an enactment of Alberta or Canada

(f) for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure.

(l) for the purpose of determining or verifying an individual's suitability or Eligibility for a program

In relation to section 40(1)(b), it is submitted that pursuant to section 17(2)(c) of the FOIP Act, disclosing [the Complainant's] personal information in this instance did not constitute an unreasonable invasion of his personal privacy. Section 17(2)(c) states:

17(2) A disclosure of personal information is not an unreasonable invasion of a Third Party's personal privacy if

(c) an Act of Alberta or Canada authorizes or requires the disclosure.

In relation to sections 40(1)(c) and (1), the medical information referenced in the Letter was collected to determine [the Complainant's] eligibility for benefits under the WCA.

Disclosure of the information in the Letter was for the same purpose as it was collected, which was to comply with the WCB's statutory requirement, given the employer's interest and right of appeal.

[para 6] Section 44 of the WCA, to which the Public Body refers in its submissions, imposes a duty on the Public Body to advise a worker and the worker's employer of the particulars of a determination regarding a worker's entitlement to compensation. As noted by the Public Body in its submissions, this provision states:

44 On the making of a determination as to the entitlement of a worker or the worker's dependant to compensation under this Act, the employer and the worker or, in the case of the worker's death, the worker's dependant, shall, as soon as practicable, be advised in writing of the particulars of the determination, and shall, on request, be provided with a summary of the reasons, including medical reasons, for the determination.

[para 7] The Public Body argues that the foregoing provision authorizes its disclosure to the Complainant's employer. The Complainant countered in his request for inquiry that section 44 does not provide the requisite authority. He states:

The WC Act clearly stipulates that a request be made before the [disclosure] of information is made. WCB has not shown that [the Complainant's employer] made any request for a summary of the reasons for determination and solely volunteered the information.

The position of the Complainant is that section 44 does not authorize disclosure to the employer in this case, as his employer did not request the Public Body's reasons.

[para 8] In Order F2006-026, the Director of Adjudication adopted the following interpretation of section 44, stating:

Section 44 of the WCA provides:

44 On the making of a determination as to the entitlement of a worker or the worker's dependant to compensation under this Act, the employer and the worker or, in the case of the worker's death, the worker's dependant, shall, as soon as practicable, be advised in writing of the particulars of the determination, and shall, on request, be provided with a summary of the reasons, including medical reasons, for the determination.

This provision requires the Public Body to provide an employer with the particulars of a determination as to a worker's entitlement to compensation. A small part of the disclosed information falls within the phrase 'particulars of a determination as to entitlement'. Examples are: the first paragraph, and the first two sentences on page 3, of the Public Body's letter to the Complainant of August 29, 2005; the last sentence under bullet 5 on page 5, and the last two sentences under bullet 6, of the decision of the Decision Review Body of April 14, 1998. I find the Public Body was authorized to disclose such information.

However, most of the information does not fall within the scope of the phrase mentioned in the preceding paragraph. The reasons for the determination, including medical reasons, are to be provided only *on request*. There is no evidence that there was a request, and there is evidence suggesting there was no request. According to both parties, when the new owner began to receive the information, she called to inquire why she was receiving it. She was told that the Complainant's claim could affect her experience rating, and that she should keep the information. A note of this conversation made by the WCB staff member with whom she spoke concludes with the comments: "Adv'd it may be to her best interest to keep the claim

information and review to ensure her knowledge of the case - she [the new owner] will keep a file". However, while this may have indicated willingness on the part of the new owner to collect the information, that is not the same thing as her having requested the reasons for a particular determination relative to the claim. Thus, in the absence of any evidence or any suggestion by the Public Body that there was such a request or requests, I find there were not any.

Furthermore, even if requested, such information is to be in the form of a summary. Though some of the disclosed documents constitute the reasons for determinations as to entitlement, they are the full reasons, not "a summary" of the reasons or medical reasons.

[para 9] In the foregoing order, the Director of Adjudication determined that the Public Body had contravened the FOIP Act when it disclosed its full reasons for an entitlement decision, including medical reasons, to the company that had taken over the business where the complainant had worked at the time of her accident.

[para 10] The Public Body relies on Order F2005-027, which, despite its order number, was released a month after the release of Order F2006-026. The adjudicator who decided order F2005-027 did not refer to Order F2006-026, but interpreted section 44 of the WCA in the following way:

Section 44 of the WCA reads:

44 On the making of a determination as to the entitlement of a worker or the worker's dependant to compensation under this Act, the employer and the worker or, in the case of the worker's death, the worker's dependant, shall, as soon as practicable, be advised in writing of the particulars of the determination, and shall, on request, be provided with a summary of the reasons, including medical reasons, for the determination.

In order for a disclosure to fall within this section, three criteria must be fulfilled:

- a) the WCB must make a determination as to the entitlement of a worker or the worker's dependant to compensation under the WCA;
- b) the WCB must provide the employer with written "particulars of the determination"; and
- c) if requested by an employer, the WCB must provide the employer with a summary of the reasons. This summary includes the medical reasons for the determination.

The records at issue contain the WCB's decisions about the Complainant's compensation claim. These records often contain the reasons for the decision. The issue before me therefore becomes whether the phrase "particulars of the determination" within section 44 gives the WCB the authority to disclose, not only its decision regarding the Complainant's entitlement to compensation, but also the reasons for the decision.

The Canadian Oxford Dictionary defines the word "determination" as "2a. *the process of deciding, determining, or calculating. b. the result of such consideration*". The word "particular" is defined as "2. *points of information; a detailed account*". Given these definitions, I find the phrase "particulars of the determination" to mean, a detailed account of a decision and, therefore, must include the reasons for the decision.

I do not see how “a detailed account of the decision” would not also include the reasons for the decision. Conversely, I find that the reference in section 44 to the “summary of the reasons” refers to a more specific enumeration of the reasons which a person might not ascertain from the particulars of the determination.

In the foregoing case, the adjudicator concluded that the phrase “particulars of the determination” included the reasons for making a decision. The adjudicator did not refer to Order F2006-026. He concluded that section 44 authorized the Public Body to disclose reasons for a decision to the complainant’s employer in the absence of a request.

[para 11] This office has issued two conflicting decisions regarding the appropriate interpretation of section 44 of the WCA. In my view, the interpretation of section 44 by the adjudicator in Order F2005-027 is untenable, as it ignores the context in which the phrase “particulars of the determination” appears.

[para 12] As Ruth Sullivan notes, the context in which the words of a statute appear must be considered in interpreting a statute:

More than twenty-five years ago, in the first edition of the *Construction of Statutes*, Elmer Driedger described an approach to the interpretation of statutes which he called the modern principle:

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context, in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

The modern principle has been cited and relied on in innumerable decisions of Canadian courts and in *Re Rizzo and Rizzo Shoes Ltd.* it was declared to be the preferred approach of the Supreme Court of Canada¹.

[para 13] According to the plain meaning of section 44, the Public Body has a duty to notify a worker and an employer of the particulars of a determination. When the worker or employer requests the reasons for the determination, the Public Body then has an additional duty to provide a summary of reasons, including medical reasons, for the determination to the worker or employer. If it were the case that the phrase “particulars of a determination” is intended to include the reasons for a determination, then the requirement that the reasons be provided in summary form on request is nugatory. This is because there would be no need for the Legislature to impose the duty to provide reasons, including medical reasons, on request, if the duty to provide the particulars of a determination already encompassed this duty.

[para 14] The context in which the phrase “particulars of the determination” occurs supports finding that this phrase likely refers to what the Public Body has determined – i.e., whether the claim is accepted and, if so, what for, and for what period, but not the reasons for the decision, which must be requested, and then received in summary form.

¹ Ruth Sullivan, *Sullivan and Driedger on the Construction of Statutes*, (Markham; Butterworths Canada Ltd., 2002) p. 1

[para 15] In my view, section 44 of the WCA attempts to balance the administrative law requirement that the Public Body provide reasons in relation to entitlement decisions, with the need to protect the sensitive personal or medical information of a worker from unauthorized or inadvertent disclosure. The requirement that reasons be requested by the worker or employer before such are to be released protects the worker's personal information in a number of important ways. First, it means that the Public Body will have up to date contact information of the worker or a representative of the employer to whom the information described in section 44 will be sent, minimizing the risk of sending it to the wrong recipient. Second, as the Act authorizes disclosure only to the worker's employer, it makes it necessary to specify the recipient of the information on the correspondence, minimizing the risk that, as happened in this case, persons who do not represent or act as the employer within the terms of the WCA, will review the information in order to forward it to an authorized person. Third, section 44 enables the Public Body to provide summaries of reasons to a worker or employer sufficient to satisfy the respective interests of the worker and employer, which may not be equal. In other words, the summaries to be sent out under section 44 to a worker or employer may not contain the same degree of detail, but be tailored to reflect the interests of the requesting party. Finally, the requirement that information be requested ensures that reasons and medical information are sent only to an employer with an interest in the entitlement decision, as opposed to one that is not.

[para 16] There is no evidence before me that the Complainant's employer requested the Public Body's reasons for denying the Complainant's claim. Instead, the Public Body sent correspondence containing its reasons, including medical reasons, for denying the Complainant's claim to his employer without a request, and without specifying an intended recipient. I find that the disclosure to the employer was not authorized or required by section 44 of the WCA.

[para 17] In arriving at this conclusion, I accept that the Public Body automatically provides its reasons to a worker and an employer as a matter of course to ensure fairness and transparency, and to eliminate additional steps in its process. I also acknowledge that the interpretation of section 44 I have adopted may impose additional steps for the Public body to undertake in order to meet its common law duties to be fair and transparent. However, section 44 is explicit that the duty to provide reasons is engaged only once a request for reasons is received, and not before.

[para 18] I note that "Business Procedure 4.2-5: IED – Make an Entitlement Decision", which the Public Body provided for my review, requires a case manager to contact the worker and the employer to discuss an entitlement decision, prior to releasing it. It may be that the Public Body could adapt this process so that the case manager would also use this step of the process to determine whether the parties are requesting reasons for the entitlement decision, and the identity of a person who would be authorized by the employer to request and receive the reasons for the entitlement decision on the employer's behalf.

[para 19] As I find that section 44 does not authorize the Public Body's disclosure of the Complainant's personal information as it relates to its reasons for refusing his claim to his employer, it follows that I do not accept its arguments that sections 40(1)(b), (c), (e), and (f) of the FOIP Act authorize its disclosure.

[para 20] With regard to the Public Body's arguments in relation to section 40(1)(l) of the FOIP Act, I accept that the Public Body *collected* the Complainant's medical information in order to determine his entitlement to benefits. However, its disclosure of the Complainant's medical information has not been demonstrated to serve the same purpose. Rather, I find that the disclosure was intended to communicate the Public Body's decision to deny the claim and its reasons for doing so to the employer. I find that section 40(1)(l) does not authorize the Public Body's disclosure of the Complainant's personal information, where it appears in the Public Body's reasons for denying his claim.

Section 147 of the WCA

[para 21] The Public Body argues in the alternative that section 147(3) of the WCA authorizes the disclosure of its reasons for denying the Complainant's claim.

In addition to the requirement to notify the employer when an entitlement decision is made under section 44, WCB has authority to disclose details about an individual's claim to an employer based on section 147(3). The date of accident employer has appeal rights and hence unquestionably is an interested party and therefore, a "person directly concerned" under section 147(3)(a) of the WCA. Sections 147(2) and 147(3)(a) state:

147(2) No member of the board of directors and no officer or employee of the Board shall, except as provided in this section, disclose or allow to be disclosed information respecting a worker or the business of an employer that comes to that person's knowledge or is in that person's possession as a member, officer or employee.

(3) Information referred to in subsections (1) and (2), including personal information, may be disclosed to

(a) a person directly concerned, for a purpose the Board considers necessary to carry out the purposes of this Act, [...]

The Public Body reasons that section 147 provides legislative authority for the disclosure. If this is so, the disclosure would be authorized by section 40(1)(f) of the FOIP Act.

[para 22] Section 147 of the WCA states:

147(1) No member of the board of directors, no officer or employee of the Board and no person authorized to make an investigation under this Act shall, except as provided in this section, disclose or allow to be disclosed any information that is obtained by that person in making the investigation or that comes to that person's knowledge in connection with the investigation.

(2) No member of the board of directors and no officer or employee of the Board shall, except as provided in this section, disclose or allow to be disclosed information respecting a worker or the business of an employer that comes to that person's knowledge or is in that person's possession as a member, officer or employee.

(3) Information referred to in subsections (1) and (2), including personal information, may be disclosed to

(a) a person directly concerned, for a purpose the Board considers necessary to carry out the purposes of this Act, or

(b) an agency or department of the Government of Canada, the Government of Alberta or the government of another province or territory, for a purpose the Board considers necessary to carry out the purposes of this Act or for any purpose in accordance with an enactment of Alberta, of another province or territory of Canada or of Canada that authorizes or requires the disclosure.

(4) Where a matter is being, or may be, reviewed under section 21(3), 46 or 120 or appealed under section 13.2, the following persons are entitled, on request, to receive, and the Board is authorized to disclose, copies of information, including personal information, that is in the Board's possession and related to the claim or matter under review or appeal:

(a) the worker, or the worker's personal representative or dependant in the case of the death or incapacity of the worker, or the agent of any of them;

(b) the employer or the employer's agent;

(c) a person with a direct interest in the claim or matter that is the subject of the review or appeal, or the agent of that person.

(5) Persons referred to in subsection (4) shall not use or disclose the information provided under that subsection for any purpose other than the review or appeal.

[para 23] Section 147(3) is drafted in the passive voice, with the result that "information" is the subject of this provision, rather than a person. It is therefore unclear whether this provision refers to the persons who are the subject of the prohibitions in subsections (1) and (2) as persons who may disclose personal information or whether the provision refers to "the Board", to which section 147(3)(a) refers.

[para 24] I acknowledge that the Public Body interprets section 147(3) as a standalone provision authorizing the Public Body to disclose personal information to a

person directly concerned, without consideration of any other statutory provisions, once the Board, presumably acting through its employees, considers it necessary to disclose the information to carry out the purposes of the Act. I agree that this is a possible interpretation of section 147(3). However, in my view, the context created by subsections (1), (2), and (4), in addition to section 44 of the WCA, argues against the idea that the provision is intended to allow for the determination of necessity by individual members, employees or officers on an *ad hoc*, case-by case basis.

[para 25] Rather, in my view, section 147(3) is intended to establish that the prohibitions in subsection (1) and (2) do not apply in circumstances in which a prior policy determination that disclosures of a particular kind are necessary to carry out the purposes of the WCA applies in the particular case.

[para 26] In reaching this conclusion, I have reviewed earlier decisions of this office in which the adjudicator interpreted an earlier version of section 147, which permitted information sharing “under the authority of the Board”, as permitting sharing only “in accordance with the specific provisions of the WCA and the policies of the WCB that authorize the sharing of specified information in specified circumstances.” (See Orders F2006-026, F2009-041, F2011-006, F2013-11, and F2013-52.) I acknowledge that the Act has since been amended. However, the reasoning from the earlier cases continues to apply to the amended provisions.

[para 27] If subsection 147(3) is interpreted as a standalone provision authorizing the Public Body to disclose information on an *ad hoc* basis, then the restrictions on disclosure contained in subsections (1) and (2) would not be lifted with regard to members of the Board, officers, or employees, even where other provisions of the WCA would authorize or require member such persons to disclose information.

[para 28] In addition, as discussed above, section 44 requires the Public Body to provide reasons for entitlement decisions “on request”. Section 147(4) contains authority for the Board to disclose “copies of information, including personal information, that is in the Board’s possession and related to the claim or matter under review or appeal” to persons entitled to receive the information, “on request”. If section 147(3) were interpreted as authorizing the Public Body to disclose information, including personal information, when an individual employee or officer decides it is necessary to do so to carry out the purposes of the WCA, without reference to the provisions of the WCA and related policies that specifically authorize disclosure, then sections 44 and 147(4) with their attendant restriction that there be a request for information before it is disclosed, would be superfluous, as the authority to make the disclosure without a request would already be contained in subsection 147(3).

[para 29] Section 147(3) is better interpreted as clarifying that the prohibitions in subsections (1) and (2) do not extend to disclosures by members of the board of directors, officers or employees, of the board, when the disclosure is made to a person directly concerned within the terms of the Act and the Board’s pre-determined policies for information disclosures. I say this because this interpretation does not render section 44

and 147(4) meaningless, but allows them to serve discrete functions. Moreover, it enables members of the Board of Directors, officers and employees to make disclosures when their duties under the WCA require it. It is, in other words, an exception to the prohibitions that is meant to work in concert with the authorizing provisions of the legislation and related policies.

[para 30] In this case, the Public Body has not established that the disclosure in this case fell within any of the disclosure provisions of the WCA or the accompanying policies. With reference particularly to Policy 01-01 Part II, which governs disclosures of a worker's information to an employer, it has not shown that the disclosure was necessary for the purpose of managing a claim.

[para 31] Section 17(2)(c) of the FOIP Act establishes that it is not an invasion of personal privacy if "an Act of Alberta or Canada authorizes or requires the disclosure". Section 40(1)(e) of the FOIP Act authorizes disclosure for the purpose of "complying with an enactment of Alberta or Canada" or with "a treaty, arrangement or agreement made under an enactment of Canada". Section 40(1)(f) authorizes disclosure "for any purpose in accordance with an enactment of Alberta that authorizes or requires the disclosure". I find that none of these provisions applies in this case.

Conclusion

[para 32] If there had been evidence before me that the Complainant's employer had requested the Public Body's reasons for refusing the Complainant's claim, and the Public Body had provided a summary of its reasons, then I would find that the disclosure was authorized by section 44 of the WCA. However, in the absence of such evidence, I am unable to find that the disclosure is authorized by a provision of section 40(1) of the FOIP Act. As a result, I must direct the Public Body to cease disclosing the Complainant's personal information in circumstances that contravene the FOIP Act.

[para 33] As I find that the disclosure is not authorized by section 40(1) of the FOIP Act, I need not address whether the disclosure met the requirements of section 40(4) of the FOIP Act. However, if I am wrong in my conclusions regarding section 40(1), it would be necessary to make a determination as to whether the disclosure meets the requirements of section 40(4).

III. ORDER

[para 34] I make this Order under section 72 of the FOIP Act.

[para 35] I order the Public Body not to disclose the Complainant's personal information in contravention of the FOIP Act.

Teresa Cunningham
Adjudicator