

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER P2019-06

October 23, 2019

WORLEY PARSONS CANADA

Case File Number 003110

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request under the *Personal Information Protection Act* (PIPA) to Worley Parsons Canada (the Organization). He requested his personal file, in addition to other records regarding his insurance claim, and information documenting a litigation hold.

The Organization provided the Applicant with his personal file and other information about his insurance claims. However, it refused to provide references contained in his personal file, draft calculations and information regarding documenting a litigation hold, on the basis that such information was outside the scope of PIPA.

The Applicant requested review of the Organization's response to his access request and then an inquiry. In his submissions for the inquiry, Applicant demanded records from the Organization unrelated to those that were the subject of the requests for review and inquiry. He also made complaints against the Organization, many of which were outside the scope of PIPA to address.

The Adjudicator determined that the Applicant had no interest in the subject matter of the inquiry and confirmed that the Organization had responded appropriately to the Applicant under PIPA.

Statutes Cited: **AB:** *Personal Information Protection Act* S.A. 2003, c. P-6.5 s. 52

I. BACKGROUND

[para 1] The Applicant made an access request to Worley Parsons Canada (the Organization). He requested:

- All Claims STD/LTD so far with [the Organization].
- Master Contract Copy of Group Insurance Plan with Desjardins AND All Revisions Since 2012 onwards.
- Details of Premium paid so far through Salary deductions.
- ALL Phone Transcripts with [the Organization], Desjardins, and any other member related to my Disability Case.
- All Employer statements submitted by [the Organization] to Desjardins for any of my Disability till Date
- All Notice to Return to work between Worley Parsons and Desjardins Financial Services related to my Disability. (STD/ LTD)
- All Employee statement available with [the Organization] as on Date.
- All transcripts of Calls made from [the Organization] to Desjardins related to my claims, emails, minutes of meetings, notes etc.
- Complete details of my Hours worked with [the Organization] since I joined. (Please include Time Card and pay Stub snapshots)
- Complete Copy of my Personal File with [the Organization].
- Any and All other information and Document that was shared with Desjardins Financial Service Adjudicators from [the Organization] through any means.
- Copy of Ethics Complaint against Desjardins which was closed and later re-opened by [...] Please provide as much details as possible.
- All emails from my [the Organization] Account [...] sent out to HR, Management, Desjardins and yourself related to my Disability Claims, Health Status, WBC reports, Ergonomics Chair, Sit and Stand Table, Text to Speech Software.
- HSE reports for two [incidents] that had taken place at [the Organization]. One from Shell Scotford and other one from CSOP-E.
- Also Please include confirmation letter of Litigation Hold letter and names of Employees that have been included for the same. Also please [advise] till when [the Organization] is able to keep that on HOLD. If there are any challenges, I would hope that I am given sufficient heads-up before that HOLD is lifted up.

If the information requested above is not part of [the Organization's] scope, please specify the same and specify the reason. I am hoping that [the Organization's] Executive management will assist me in my endeavor towards Appealing my Disability claim with Desjardins Financial Service which is Group Insurance Plan for Employees. I have tried getting this information, without success.

[para 2] The Organization responded to the Applicant's access request. It provided responsive information, but refused to provide the "internal draft calculation sheet, reference checks, litigation hold records and the names and contact information of third parties on STD / LTD claims" on the basis that this information was not the Applicant's personal information and could not therefore be the subject of a request under PIPA.

[para 3] The Applicant requested review by the Commissioner. The Commissioner authorized a senior information and privacy manager to investigate and attempt to settle the matter. At the conclusion of this process, the Organization provided the business contact information of Desjardins employees where it appeared in the Applicant's disability claims.

[para 4] The Applicant requested an inquiry. He stated:

- Incomplete, Partial Information, Inconsistent Revisions, No Sequence
- Documents [received] post PIPA request are not in alignment to AHRC;
- Process of exchanging and transferring and confirmation is not [illegible]

[para 5] The Commissioner agreed to conduct an inquiry and delegated her authority to conduct it to me.

[para 6] The Applicant provided the following submissions for the inquiry in an email dated August 28, 2019:

Applicant was unsure about what constitutes "Privileged Documents". One or more documents have already been either produced and or listed in court. Please accept the Applicant statement to support his Privacy concerns regarding the organization.

The applicant made several requests to several people in the Organization through phone, email & FAX since March 2014 onward but was unable to get True, Complete, and timely access to his information and records.

- **Manager**
- **HR**
- **Location HR Director**
- **Ethics Complaints**
- **Director & CEO**

This was about two key events:-

- 1) Incriminating letter issued to applicant in March 2014 which was possibly a retaliation against him following his Jan 21, 2014 complaint about an individual which was also a Human Rights and Ethics complaint. Worley Parsons Global Director and CEO was responsible for preventing Human Rights across all offices and applicant was working for the scope of global offices.**
- 2) Assist him with STD/LTD benefits which was repeatedly denied by their long term Group Insurance partner - Desjardins and or reporting that matter to WCB. Since March 2014 onward till termination of his employment in Oct/Nov 2015.**

Code of conduct expects every individual to behave ethically and or bring that matter to the notice of his manager, Location HR, ethics helpline, ethics committee member and or other senior executive member. This may be either incidence related to employer, clients, and even Group Insurance. All such incidence which the applicant had brought to the attention of authorities as per Code of Conduct related to violation of ethics (Verbally, in person, email, ethics complaint etc) his information was breached and applicant was retaliated by employees, client, group insurance and even his neighbors and friends and acquaintance. Organization retaliation against the applicant escalated after his Jan 21, 2014 complaint, leading to health issue in middle of March 2014 (After receipt of Incriminating letter on same day, stepping from [...] his position) and April 30, 2014 (Second letter of Performance which was not even brought to his attention). Following applicant Jan 2014 letter he was retaliated by the same set of people who had retaliated against him for reporting other similar violation of Ethics complaints to his manager as per organization code of conduct

Organization participated in one or more breach of Privacy Act[,] as below.

Section 10 - Consent obtained by deception:

- Difference in legal entity name used and signed Privacy document during the recruitment.
- Dispatch of different Group Insurance policy in offer of employment email and taking his signature in different legal entity and providing him benefits of different Group Insurance and or collecting premium for different Group Insurance benefits.
- Frequent and uninformed changes into legal entity of applicant employer to get access to his medical information and record without his consent as per contractual agreement with group Insurance Desjardins and other intent.
- Setting up employees to gather information about employees personal information.
- Good Cop/Bad Cop psychological tactics to get Personal Information about other employees. (e.g. HR Vs EDS Manager, Employer Vs Group Insurance. etc)
- Using vulnerable employees and obtain their consent without their knowledge, and or understanding.

Section 27 - Duty to assist

- Did not provide applicant with True, Complete and timely records and information that the applicant had been requesting for matters related to serious incriminating charges and more importantly STD/LTD benefits.
- In early 2014 the applicant was working for global offices of [the Organization] and [...] was Director and CEO of Global office responsible for preventing violation of Human Rights. So far nothing has been produced by any other office and Applicant request was delegated to location Internal Privacy council.
- The records they were produced did not specified which records were produced, which were not produced, which were produced in parts and why?
- Apart from how organization collects, retains and uses Personal information about the individual and uses it only for their own benefit and did not assist applicant with
 - Clearing his name from serious allegations.
 - Internal legal support and or advice.
 - STD/LTD benefits by their Group Insurance(e.g. with application, appeal and or legal advice)
 - Assist applicant's wife when the applicant was diagnosed with brain Aneurysm.
 - Assistance to applicant with knowledge and information related to Benevolence leave when his father was critically ill.
 - Assisting him with other one or more matter between Feb 2014 - 2015 when he was being retaliated severely by several key employees and in-spite of one or more EMS incident from work place the Director and CEO choose to ignore.

Section 25 - Request for correction

- The organization failure under section 27 - duty to assist, section 33 - accuracy of Information, Section 34, Protection of Information, section 34.1 notification of loss or unauthorized access or disclosure and or failure of section 35 - retention and destruction had prevented applicant to provide necessary request for correction and the corrections that were proposed by the applicant were not responded, acknowledged.

Section 33 - Accuracy of Information

- The Organization did not take enough steps to ensure integrity, accuracy of personal information of the applicant with their Group Insurance, offices around the world and several other legal entities.
- Several uninformed changes in applicant Personal records took place and in very few cases if the management was notified they refused to entertain any such requests.
- Applicant had experienced several versions of his Personal Information existed in the organization(Verbally, for viewing purpose, through email, in paper, in court and or for OIPC purpose)
- Group Insurance, WCB, Hospital and potentially several other legal entities and offices of [the Organization] had different records related to applicant.

- Organization failed to raise flag to the applicant's Group Insurance and or to the applicant regarding frequent changes in the legal entity of his employer's name and thus applicable contracts and or benefits.
- Organization used ambiguous Legal entity name on various applications to prevent employee from noticing and reporting error in their Personal Information. Some of this may also have been transmitted to the other legal entities.
- Organization made several changes into employment records of several employees.

Section 34 - Protection of Information

- Applicant had several unexplained changes into his Person information in records that were with one or more offices of [the Organization] outside of Canada.
- IM, Pay Stubs, and other service tickets by applicant.
- Organization did not do enough to protect integrity of Personal Information of the applicant.

Section 34.1 - Notification of loss or unauthorized access or disclosure

- The Organization had not provided any notification or unauthorized access or disclosure of Applicant Personal Information.
- Unexplained, uninformed and several changes in personal information of applicant without his consent, knowledge and awareness had taken place.

Section 35 - Retention and destruction of Information

- Instead of assisting applicant with STD/LTD benefits instead of assisting applicant the organization deleted and destroyed his email and other records from office.
- Incriminating changes against applicants in March 2014 demands Digital forensic data, its analysis and records that could be reproduced.
- Organization had not produced ALL records and information under their control and custody and or destroyed it.
- The Information that was provided to applicant did not specify why a specific information was denied in part and or in full.
- Information provided to Applicant under OIPC Act was mostly related to his STD/LTD dismissal.
- IM, Pay Stubs, and other service tickets by applicant.

Worst form of Breach of Privacy is through informal means, incorrect communication and practiced by two or more legal entity. The documents and information of the applicant was shared / compromised with several employees, legal entities, associates, and their clients leading to more people retaliating against the applicant and one that lead to several catastrophes in applicant and his family. [Employees] who attempted were retaliated, while [others] were rewarded, retained, relocated.

[para 7] The Organization requested an extension to provide its submissions. As it was unclear from the evidence and submissions before me that the Organization had a case to meet under PIPA, I informed the parties that I would consider the extension request once the Applicant provided submissions as to why he believed the information he had requested, but had not been provided, was his personal information. I also asked the Applicant to clarify the issues and information for which he had sought an inquiry.

[para 8] On September 19, 2019, the Applicant responded to my letter. He stated:

This email is continuation to email by Applicant Dated:- Wed, Aug 28, 2019 attached with this email for [the Applicant] records and tracking along with letter from Registrar Office Dated:- Sept 17, 2019. [The Applicant] had made few more Privacy complaints to determine the level and extent of damage that Organization may have caused him and his family. It is for commissioner Jill Clayton to support [the Applicant] in his other Privacy complaints to expedite this matter.

From Privacy Inquiry perspective we confirm that we have not received ANY letter from [an employee of Worley Parsons in Australia] delegating this matter to [the Organization's lawyer]. Evidence/Significant Volume:-Reference to letter from Registrar Dated:- Sept 17, 2019 regarding key words "significant volume". [The Applicant] in unable to determine what records and information the Organization is talking about as ALL such records and documents are either already produced and or should have been produced by now and if not [the Applicant] should have been notified about part records/denial in specific along with appropriate section under which the Organization refuses to produce it to [the Applicant] after the fact that [the Applicant] had been requesting it from the organization for over several years.

Extension of time:- Since there is NO clarity about ALL relevant and material evidence add or records that the organization is referring to the question of extension of time could not be addressed by the applicant.

Response from [the Applicant]:-

- [The Applicant] has started to [lose]faith and confidence into how this complaint had been dealt so far.
- Access to Records of [the Applicant] rightful Legal entity name, applicable privacy agreements and this other direct and indirect benefits to [the Applicant] and his family specifically applicable Group Insurance is Personal Information of [the Applicant] and since this was raised directly and indirectly to Organization Director & CEO through emails. Ethics members, Ethics complaints following Jan & March 2014 incidence it should have been caught, corrected and notified to [the Applicant] in fair and reasonable time.
- Further regarding clarification from Privacy Office to [the Applicant] regarding "[Whether] the information he had requested is his personal information" was asked on Sept 17, 2019 when the complaint was registered in 2016 (after 3 years had passed).
- Considering that the applicant is disabled and self represented, did the OIPC-AB office considered sharing the legislation PIPA. Are you suggesting that in a land of law where justice is equal for ALL is only available to people who are represented by lawyers and or had appropriate and sufficient legal knowledge? (Accommodation and Equality)
- Since the Information that [the Applicant] had been requesting is dated back since March 2014 and that time location HR Director and the fact that she now works with Government of Alberta is something that interfered in the past and continuously interferes with one or more department of Government of Alberta to function independently and without ANY influence/pressure? (Conflict of Interest)
- Further, it is difficult to interpret and respond to Information/Question where legal entities and appropriate privacy legislation are NOT specified by the Director and CEO and or his delegates (a lawyer of the Organization) in this case. Unless [the Applicant] is able to determine records of ALL his legal entities name of his employers and applicable Privacy agreement. Would appreciate if this could be clarified by the organization.
- Will this response affect one or more Privacy complaints made by [the Applicant]? [The Applicant] is requesting Attorney General of Canada and or Justice Minister of Alberta to initiate an Open Independent Investigation into failure of one or more Government department to produce and or respond to [the Applicant] request to Privacy Information.

[para 9] On October 4, 2019, the Applicant emailed a second response to my letter. This letter provided clarification as to the kinds of records he was seeking. I decided to accept it, even though it was unsolicited. He stated:

Collection/use & disclosure of ANY information/evidence provided to the Organization in due course of employment by the applicant to the Ethics committee manager/department manager & Location HR is part of Personal Information of the applicant which may be used to prove his innocence and or assist him with ensuring his disability benefits and or other rights. In this case applicant is referring to ALL allegation against him during his employment, and evidence

provided by him related to one or more violation of code of conduct and local and Global Civil, Human rights, Privacy and other laws & others.

Definition:- means information about an identifiable individual:-

- All others as stated earlier in **initial submission(as attached)** and organization **critical documents**. (True and complete copies of ALL relevant Contracts, sub-contracts, Health audits, and other local and Global Privacy laws compliance)
- ALL relevant and produce-able evidence and information that was provided to the Organization **by applicant against other employees who participated in Breach of Code of Conduct**. (Specifically employees who regularly participated in Damaging Shell Canada systems setup for which the applicant was responsible and people who retaliated and harassed against applicant)
- ALL relevant and produce-able evidence and information based on which **applicant was alleged of Incriminating actions in office, demanding unreasonable hardware as well as relationship with Shell Canada**.
- ALL relevant and produce-able evidence and information related to **Ethics complain against their long term group Insurance** who also claims to be following industry best practices and is a leading Group Insurance and financial risk management to several Canadians.
- ALL relevant and produce-able evidence and **information exchanged between Organization and their clients, associates, third party within and outside of Canada, WCB, AHS, CC&T, Group Insurance, applicant's neighbors, One or more Government Departments and more specifically EPS and RCMP**.

[para 10] After I reviewed the Applicant's responses to my questions, I decided to issue this order without obtaining further submissions or evidence from the parties. I also decided to address the preliminary issues of whether I have jurisdiction to address the issues and information the Applicant raised in his submissions.

II. ISSUES

Preliminary Issue: Do I have jurisdiction to address the issues and information to which the Applicant refers in his submissions?

Issue A: Was the information in the withheld records, or some of it, the Applicant's personal information?

Issue B: If the information is the Applicant's personal information, did the Organization refuse to provide access to the Applicant in accordance with section 24(2) (discretionary grounds for refusal) or with section 24(3) (mandatory grounds for refusal)? In particular,

- a. **Did the Organization properly apply section 24(2)(a) (legal privilege)?**
- b. **Does section 24(3)(b) (information revealing personal information about another individual) apply to certain requested records or parts thereof?**
- c. **Does section 24(3)(c) (information revealing identity of a person who provided opinion in confidence) apply to certain requested records or parts thereof?**

III. DISCUSSION OF ISSUES

Preliminary Issue: Do I have jurisdiction to address the issues and information to which the Applicant refers in his submissions?

[para 11] The Applicant did not refer to records regarding internal draft calculations reference checks, litigation hold records, or the names and contact information of third parties on STD / LTD claims in his submissions or his responses to my questions. In his most recent submissions, discussed above, he indicated that he is seeking evidence; specifically, he is seeking evidence about other employees, the evidence on which allegations against him were based, evidence related to an ethics complaint, and evidence regarding email communications between the Organization and its clients, government departments, insurers, and the RCMP.

[para 12] PIPA authorizes an applicant to request personal information from an organization; however, it does not authorize an applicant to request anything other than information about the applicant or create a duty in an organization to provide such information to an applicant. Information that may affect an applicant, or information that an applicant may find useful, is not subject to PIPA unless the information in question is also about the applicant. Conceivably, some of the information the Applicant discusses in his most recent letter is about him, but it seems likely that much of it is not. *Moreover, the information the Applicant is now seeking does not form part of the initial access request or his request for review and is not the information the Commissioner referred to in inquiry.*

[para 13] The Applicant has also made complaints regarding the Organization, many of which are beyond the scope of PIPA to address. The Commissioner did not agree to conduct an inquiry regarding these complaints and these complaints are not before me.

[para 14] As the Applicant has not referred in his submissions to the information for which the Commissioner agreed to hold an inquiry, but has discussed other information and complaints, I infer that he has no interest in the information regarding which the inquiry was established.

[para 15] As making a determination regarding the information that is the subject of the inquiry would not address the issues the Applicant has now raised, I conclude that there is no benefit to addressing it further.

IV. ORDER

[para 16] I make this Order under section 52 of the Act.

[para 17] I confirm that the Organization responded appropriately to the Applicant's access request.

Teresa Cunningham
Adjudicator