



**PERSONAL INFORMATION PROTECTION ACT
Breach Notification Decision**

Organization providing notice under section 34.1 of PIPA	Advanced Upstream Ltd. (Organization)
Decision number (file number)	P2021-ND-343 (File #018445)
Date notice received by OIPC	November 30, 2020
Date Organization last provided information	November 30, 2020
Date of decision	March 10, 2022
Summary of decision	There is a real risk of significant harm to the individual affected by this incident. The Organization is required to notify the individual whose personal information was collected in Alberta, pursuant to section 37.1 of the <i>Personal Information Protection Act</i> (PIPA).
JURISDICTION	
Section 1(1)(i) of PIPA “organization”	The Organization is an “organization” as defined in section 1(1)(i) of PIPA.
Section 1(1)(k) of PIPA “personal information”	<p>The incident involved information in an employment agreement (name, contact information, prior terms of employment, prior compensation information).</p> <p>This information is about an identifiable individual and is “personal information” as defined in section 1(1)(k) of PIPA. To the extent the information was collected in Alberta, PIPA applies.</p>
DESCRIPTION OF INCIDENT	
<input type="checkbox"/> loss <input type="checkbox"/> unauthorized access <input checked="" type="checkbox"/> unauthorized disclosure	
Description of incident	<ul style="list-style-type: none">• On April 9, 2019, the Organization’s legal counsel sent a letter to a third party organization advising that the affected individual owed certain contractual confidentiality and non-competition obligations to the Organization by virtue of his prior employment.• A similar letter was sent to the affected individual to remind him of the confidentiality and noncompetition obligations that he owed to the Organization.

	<ul style="list-style-type: none"> • The affected individual advised the Organization that the disclosure of his employment agreement was a breach of privacy. • The Organization disagreed with the affected individual's position, but advised the third-party organization to destroy the employment agreement to prevent any potential harm to the affected individual. • The third-party organization destroyed the document shortly thereafter. • The affected individual submitted a complaint to my office about this matter. The Organization subsequently reported the incident to my office under section 34.1 of PIPA.
Affected individuals	The incident affected one (1) individual.
Steps taken to reduce risk of harm to individuals	<ul style="list-style-type: none"> • Engaged and cooperated with the affected individual and the OIPC throughout the investigation process. • Ensured that the employment agreement was deleted by the third party recipient. • Engaged with external legal counsel to ensure that all statutory privacy obligations are met. • Reviewed recommendations made by the OIPC.
Steps taken to notify individuals of the incident	The affected individual was notified by telephone on or about April 9, 2019.
REAL RISK OF SIGNIFICANT HARM ANALYSIS	
<p>Harm Some damage or detriment or injury that could be caused to affected individuals as a result of the incident. The harm must also be "significant." It must be important, meaningful, and with non-trivial consequences or effects.</p>	<p>The Organization reported "The possible harms that may occur as a result of the breach are those related to reputational damage and/or embarrassment (sic)".</p> <p>I agree with the Organization's assessment. A reasonable person would consider that the contact information, as well as information relating to the employment agreement, could be used to cause the potentially significant harms of hurt, humiliation and embarrassment as well as damage to employment and/or professional relationships.</p>
<p>Real Risk The likelihood that the significant harm will result must be more than mere speculation or conjecture. There must be a cause and effect relationship between the incident and the possible harm.</p>	<p>The Organization reported,</p> <p><i>It is unlikely that any harm will result from this matter. The incident was contained quickly and effectively, and the information at issue in the matter was not particularly sensitive (sic) (e.g. no banking information, health information or SINs was involved). Additionally, the affected individual and the OIPC have been apprised of the incident since it arose and the third party organization to whom the information was disclosed destroyed all such information shortly after the disclosure.</i></p>

	In my view, a reasonable person would consider that the likelihood of harm is decreased because the breach did not result from malicious intent, but rather human error and the recipient of the information agreed to destroy it. However, these factors do not mitigate the type of harm that might result from this breach (hurt, humiliation and embarrassment, as well as harm to the employment relationship) and the professional relationship between the affected individual and the third party organization exacerbates the potential harm.
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DECISION UNDER SECTION 37.1(1) OF PIPA

Based on the information provided by the Organization and given the circumstances of the incident, I have decided that there is a real risk of significant harm to the affected individual.

A reasonable person would consider that the contact information, as well as information relating to the employment agreement, could be used to cause the potentially significant harms of hurt, humiliation and embarrassment as well as damage to employment and/or professional relationships.

The likelihood of harm is decreased because the breach did not result from malicious intent, but rather human error and the recipient of the information agreed to destroy it. However, these factors do not mitigate the type of harm that might result from this breach (hurt, humiliation and embarrassment, as well as harm to the employment relationship) and the professional relationship between the affected individual and the third party organization exacerbates the potential harm.

I require the Organization to notify the affected individual whose personal information was collected in Alberta, in accordance with section 19.1 of the *Personal Information Protection Act Regulation* (Regulation).

I understand the Organization notified the affected individual by telephone on or about April 9, 2019, in accordance with the Regulation. The Organization is not required to notify the affected individual again.

Jill Clayton
Information and Privacy Commissioner