

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2025-11

March 27, 2025

ALBERTA HEALTH SERVICES

Case File Number 021879

Office URL: www.oipc.ab.ca

Summary: The Complainant made a complaint to the Commissioner that a director (the Director) of Alberta Health Services (the Public Body) had attempted to collect his personal information. The Complainant considered this to be a contravention of the *Freedom of Information and Protection of Privacy Act* (the FOIP Act). The Complainant submitted an email between employees of the Public Body indicating that the Director had asked for details regarding a workers' compensation claim.

The Adjudicator noted that the FOIP Act does not address unsuccessful attempts by employees of a public body to collect information. The FOIP Act addresses the situation when a public body successfully collects personal information and when it uses it.

The Adjudicator determined that the Public Body had collected the Complainant's personal information when it received notice from the Workers' Compensation Board that the Complainant's claim for compensation had been accepted.

An employee of the Public Body had shared some information about the claim with the Director; however, the employee then declined to provide further information regarding the claim to the Director. The Adjudicator determined that sharing information about the Complainant's claim was a use of personal information addressed by the FOIP Act.

The Adjudicator found that the Public Body's use of the Complainant's personal information was for purposes consistent with its purpose in collecting the information.

The Adjudicator determined that the Public Body had not contravened Part 2 of the FOIP Act.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 33, 34, 39, 41, 72; *Workers' Compensation Act*, R.S.A. 2000, c. W-15, s. 44

Authority Cited: AB: Order F2008-029

I. BACKGROUND

[para 1] The Complainant made a complaint to the Commissioner that a director of the Public Body had attempted to collect his personal information. As evidence, the Complainant submitted an email between employees of the public body indicating that the Director had asked for details regarding a workers' compensation claim but did not receive any information beyond the fact that the claim had been accepted.

[para 2] The Commissioner agreed to conduct an inquiry and delegated the authority to conduct it to me.

II. ISSUE: Did the Public Body use the Complainant's personal information obtained from the Workers' Compensation Board in compliance with Part 2 of the FOIP Act?

[para 3] The Complainant's complaint, as set out in the request for inquiry, is the following:

The attempt of collection was [recognized] - Where is the [accountability] of the Director. [Isn't] this her job to follow the rules of health information on [patients] and FOLLOW the rules or is she [exempt] to these laws? This is gross abuse of power on all perspectives. Where is the accountability? SHE was caught for attempting to collect data was she not? As a Director it is her duty to the [province] to know the rules and setting the [example] correct? Did she also take a oath to protect the information of patients?

[para 4] The position of the Complainant is that it was a violation of the FOIP Act for the Director to request or receive any information regarding his workers' compensation claim. He refers to the Director's request for information as "an abuse of power". The Complainant does not refer to provisions of the FOIP Act in his submissions that he considers support his position.

[para 5] The FOIP Act contains duties for public bodies in relation to their collection, use, and disclosure of personal information. The collection, use, and disclosure provisions of the FOIP Act apply to a public body as a whole. The duties imposed by the FOIP Act apply to employees as representatives of the public body.

[para 6] When a representative of a public body collects, uses, or discloses personal information on behalf of a public body, the question is whether the public body

had the authority to do so in the circumstances in which the representative collected, used, or disclosed the personal information.

[para 7] Section 33 of the FOIP Act states:

- 33 No personal information may be collected by or for a public body unless*
- (a) the collection of that information is expressly authorized by an enactment of Alberta or Canada,*
 - (b) that information is collected for the purposes of law enforcement, or*
 - (c) that information relates directly to and is necessary for an operating program or activity of the public body.*

A public body may collect personal information only in at least one of the three circumstances cited above.

[para 8] Section 34 of the FOIP Act requires a public body to collect personal information directly from the individual who is the subject of the information except in certain circumstances:

34(1) A public body must collect personal information directly from the individual the information is about unless

- (a) another method of collection is authorized by*
 - (i) that individual,*
 - (ii) another Act or a regulation under another Act, or*
 - (iii) the Commissioner under section 53(1)(h) of this Act,*

[...]

- (n) the information is collected for the purpose of managing or administering personnel of the Government of Alberta or the public body [...]*

[...]

[para 9] The Public Body received information from the Workers' Compensation Board (WCB) about its decision to accept the Complainant's workers' compensation claim. The WCB is required by section 44 of the *Workers' Compensation Act* to inform employers, such as the Public Body, about entitlement decisions. It 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 10] Communication of entitlement decisions ensures that a worker is not paid wages and compensation at the same time unless authorized and also ensures that the employer is aware that the worker has a compensable injury. This enables the employer to manage the employment relationship while the worker is receiving workers' compensation benefits, and also enables the employer to determine whether it will appeal the entitlement decision.

[para 11] The collection of the information from the WCB is expressly authorized by section 44 of the WCA, and, as a consequence, by section 33(a) of the FOIP Act. The Public Body was not required to collect the information directly from the Complainant as section 34(1)(a) authorizes the indirect collection of personal information where a statute permits it, while section 34(1)(n) also authorizes the collection, as the collection serves the purpose of managing the Complainant's employment.

[para 12] I find that the Public Body collected the Complainant's personal information in relation to his workers' compensation claim for the purpose of managing the employment relationship. The question becomes whether the use of the personal information evidenced by the emails submitted by the Complainant is consistent with that purpose.

[para 13] Section 39 of the FOIP Act sets out the circumstances in which a public body may use personal information in its custody or control. This provision states:

39(1) A public body may use personal information only

- (a) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,*
- (b) if the individual the information is about has identified the information and consented, in the prescribed manner, to the use, [...]*

[...]

(4) A public body may use personal information only to the extent necessary to enable the public body to carry out its purpose in a reasonable manner.

[para 14] The communication that gave rise to the Complainant's complaint is the following:

Hi [Director]- the WCB injury is something that occurred at [the Complainant's] last position and shouldn't impact his position in your department. The last update we have from [cutoff] he should be returning to work October 19th. I will be touching base with them confirm this.

Hi [human resources employee] I wasn't aware that anything had even been filed with WCB. Are you able to provide any further information? What is the injury that was identified?

Hi [Director], I have been notified that WCB has accepted [the Complainant's] claim, as such [the Complainant's] file will now transferring to the Occupational Injury Team. I have included [an employee], she is the Occupational Injury Advisor who is currently managing his file/absence moving forward. If you have any questions or concerns please let us know.

[para 15] In the foregoing email, the Director was informed that the Complainant's workers' compensation claim had been accepted and that it arose from employment in another position and was provided a potential return to work date. The Director was not provided with any details as to the injury.

[para 16] In this case, the information communicated by a human resources employee to the Director was the fact that the Complainant's workers' compensation claim had been accepted. The Director was not told the nature of the injury that had been accepted.

[para 17] The head of the Public Body explained:

The WCB information was collected for the purposes of managing the Complainant's employment; therefore, Abilities Management's subsequent use of the information is authorized under section 39(1)(a), considering the Director was the party that could fulfill their respective purposes related to that collection. Each pay period, the Director was responsible for approving the (WCB specific) timecoding, scheduling and compensation for the Complainant. It is relevant to note that if Abilities Management did not inform the Director of the approved WCB claim, the Director would have otherwise become aware of the Complainant's WCB claim status, considering the Director was required to continually approve the unique WCB timecode to ensure appropriate and timely compensation for the Complainant. Therefore, the email merely provided a prompt for the Director to coordinate with Occupational Injury moving forward, to ensure there was no confusion that could have led to any errors or delays to the Complainant's compensation and applicable scheduling.

The Public Body wishes to clarify the statement (appearing in the Public Body's Rebuttal Submission) regarding the Director being "rightfully denied" details about the WCB injury. This statement did not intend to imply that the Director should not have been made aware of the existence of the Complainant's accepted WCB claim. Rather, this statement intended to communicate that while the Director was required to know that the Complainant's WCB claim was accepted, the Director required no further information, such as details about the injury itself.

The Public Body did not provide the Director with any injury information, as specifics related to the injury were of no use to the Director and were not required for the Director to fulfill their duties and purposes relating to timecoding, scheduling and approving appropriate compensation. Denying the Director's request for additional information demonstrates the Public Body's compliance with section 39(4) of FOIP, where the Public Body only used the WCB acceptance information to the extent necessary to enable the Public Body to carry out its purpose, such as managing the Complainant's claim, in a reasonable manner. Managing employees is an operating program or activity of the Public Body (Order F2013-31, paragraph 10).

Further, the Public Body asserts that the use of the information demonstrates the Public Body's compliance with section 41 of FOIP, as the purpose in which the WCB information was collected by the Public Body was consistent with the purpose for which the information was used by Abilities Management, and there is a reasonable and direct connection to that purpose; to manage the Complainant's employment while having an active WCB claim. The Director was a crucial actor in ensuring timecoding, scheduling, and compensation was completed for the Complainant. As such, there is a reasonable and direct connection between the purposes of collection, and the use of information demonstrated in the email between Abilities Management, the Director, and Occupational Injury.

In summary, the Public Body asserts that, upon collecting the WCB information, Abilities Management used the information solely for the purpose in which it was collected, by engaging the necessary personnel within the Public Body (the Director) to manage and administer the Complainant's employment. It is the Public Body's position that it acted in compliance with sections 39(1)(a), 39(4) and 41 of FOIP, as the information was only used to the extent necessary to carry out its purpose in a reasonable manner, and the purpose for which the information was used was consistent, and had a reasonable and direct connection to the purpose for which it was collected.

[para 18] The Public Body explains that the information regarding the fact of the claim was communicated to the Director as the Director was responsible for "timecoding, scheduling and approving appropriate compensation". The Public Body argues that informing the Director of the claim was for the purpose of managing the Complainant's employment and was a use consistent with its purpose in collecting the Complainant's personal information from the WCB.

[para 19] The Complainant's position is that the Director should not have asked for more information and that her question as to whether she could receive further information in some way contravenes the FOIP Act.

[para 20] The FOIP Act does not contain provisions prohibiting employees of public bodies asking whether they may receive further information or asking for further information. Instead, it contains provisions governing a public body's collection and use of personal information. Moreover, a public body does not require the consent of an individual to collect personal information and it may use personal information provided it does so in compliance with section 39.

[para 21] The Director received information as to the Complainant's anticipated return to work and the fact that he suffered a compensable injury in his previous occupation. The Public Body's evidence is that the Director required this information as it was a necessary step in ensuring that the Complainant received timely compensation. Ensuring that the Complainant was paid appropriately in view of the claim is a purpose consistent with the purpose in collecting the information (and being provided with the information) – managing personnel.

[para 22] I turn now to the question whether the Public Body's use of the Complainant's personal information meets the terms of section 41 of the FOIP Act, which defines "consistent purposes" where the term is used in section 39. Section 41 of

the FOIP Act explains the circumstances in which a public body's purpose in using personal information is consistent with its purpose in collecting the information. It states:

41 For the purposes of sections 39(1)(a) and 40(1)(c), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

- (a) has a reasonable and direct connection to that purpose, and*
- (b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information.*

[para 23] I find that sharing the personal information of the Complainant with the Director is a use of the information that has a reasonable and direct connection to the Public Body's purpose in collecting the personal information. The information was collected so that the Public Body could ensure that the Complainant was compensated appropriately, and then provided to the Director for that same purpose.

[para 24] In Order F2008-029, the Director of Adjudication discussed the meaning of "necessary" in relation to a disclosure of information for the purposes of meeting the goals of a program of the Public Body within the terms of section 41(b). She said:

I also find that it is necessary for the CPS to disclose the information to the Affected Party to operate a legally-authorized program of the CPS. As described above, both the Affected Party's staff (the Domestic Violence Court Team), and the CPS, are part of a court program that consists of a specialized court housing a cross-disciplinary team. Such a program is legally authorized, in my view, because it helps to achieve the statutory objectives of the CPS. The goal of this program is to "ensure the court is aware of and has timely access to information and circumstances surrounding the criminal case before them", which "allows the court to make informed and appropriate decisions designed to mitigate the possibility of future abuse and violence". I find that information disclosures such as those at issue are necessary for the Affected Party's caseworkers to participate effectively in this program. Since the CPS is a participant in the program (which, in my view, is sufficient to satisfy the phrase "program of the CPS"), and since the effectiveness of the program would be enhanced by the effective participation of the Affected Party's caseworkers, I find the disclosures in this case met the terms of the second part of section 41(b). Again, I find that "necessary" in this context does not mean "indispensable", and is satisfied as long as the disclosure is a significant means by which to help achieve the goals of the program. As well, it is, again, not necessary to show that the incidents from which the present complaint arose were channeled through this program, because, assuming the program was operational, at the time the information was collected there was a possibility that it would be so channeled, and it was therefore reasonable to collect the information for the purpose of this possible use.

[para 25] I agree with the analysis in Order F2008-029; the term "necessary" within the context of section 41(b) does not mean "indispensable". Rather, this provision is referring to use or disclosure of personal information that is a significant or effective means by which a public body may meet its authorized objectives.

[para 26] Compensating employees is a statutory duty of the Public Body. It was a significant means of meeting its statutory duty for the Public Body to provide the Director with information reasonably necessary to approve the authorized objective of payment of compensation.

[para 27] In addition, I find that the Public Body did not use more information than was necessary for meeting its objective of ensuring that the Complainant's compensation could be authorized.

[para 28] I find that the Public Body did not contravene Part 2 of the FOIP Act when the Director was provided the personal information documented in the emails.

III. ORDER

[para 29] I make this order under section 72 of the FOIP Act.

[para 30] I confirm that the Public Body did not contravene the FOIP Act when information regarding the Complainant's workers' compensation claim was provided to the Director.

Teresa Cunningham
Adjudicator
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