



Prince Edward Island

Legislative Assembly

Information and
Privacy Commissioner
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Île-du-Prince-Édouard

Assemblée législative

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

PRIVATE AND CONFIDENTIAL

October 22, 2024

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Sent Via Email

Dear [REDACTED],

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: PEI Department of Justice and Public Safety
Public Body Ref. Number: 2023-244 JPS
Our File No.: C/24/00125 (formerly FI-23-549)

You requested a review of a decision of the PEI Department of Justice and Public Safety (the "Public Body") on behalf of your client, [REDACTED]. I will collectively refer to you and your client as "you" or "your".

An applicant made an access request to the Public Body for records from the Major Incident Readiness Team about the team's creation and proposed work. Two pages of the responsive records contain your employees' names, email addresses (that also include names), and one employee's title and telephone number. The Department consulted with you, then advised you that they intended to disclose these two pages to the Applicant without redacting the employees' names, email addresses, and the title and phone number. You asked our office to review this decision. You cited sections 15 [personal privacy], 14 [business interests], and subsection 37(2) [only information necessary] of the PEI *Freedom of Information and Protection of Privacy Act* (the "FOIPP Act").

Not all requests for review proceed to an inquiry. Under section 64.1 of the *FOIPP Act* I may refuse to conduct a review if the circumstances do not warrant a review. On careful consideration of your request for review, your consultation remarks to the public body, and the personal information at issue, it is my opinion that the circumstances do not warrant conducting a review. My reasons are set out below.

Section 15 - would disclosure be an unreasonable invasion of the employees' personal privacy?

Section 15 of the *FOIPP Act* requires a public body to withhold personal information, if disclosing it would be an unreasonable invasion of their personal privacy. I accept that employees' names and contact information is their personal information. However, I do not accept that disclosing this information would be an unreasonable invasion of your employees' personal privacy.

In their decision letter to you, the Public Body referred to clause 37(1)(z.1) of the *FOIPP Act*. When considering whether disclosing personal information would be an unreasonable invasion of personal privacy, the public body must consider all relevant circumstances. Previous decisions of our office have noted that clause 37(1)(z.1) of the *FOIPP Act* is a relevant circumstance. Clause 37(1)(z.1) of the *FOIPP Act* authorizes a public body to disclose personal information if it is of a type routinely disclosed in a business or professional context, and does not reveal other personal information about the individual. This is often referred to as “business card information”.

Your employees' names and business email addresses are routinely disclosed in a business or professional context, and that information does not reveal other personal information about the employees. Therefore, the Public Body would have been authorized to disclose the employee's names and business email addresses, even without an access to information request, under clause 37(1)(z.1) of the *FOIPP Act*.

If the Public Body would have been authorized to disclose that information regardless of whether there was an access request made, then this weighs heavily in favour of the conclusion that disclosing the information to the Applicant in the record at issue could not be an unreasonable invasion of your employees' personal privacy.

As you remark, this information was provided in the context of responding on behalf of their employer. This information was used in a business context, not a personal one. There is no personal dimension to the names, emails, title, and phone number of the author of the email or the copied recipients. This also weighs in favour of the conclusion that disclosing the information to the Applicant in the record at issue could not be an unreasonable invasion of the employees' personal privacy.

Based on the above, it is plain and obvious that disclosure would not be an unreasonable invasion of personal privacy. Therefore, it is clear that section 15 of the *FOIPP Act* does not apply, and there is no arguable case that merits an inquiry.

Section 14 - protection for some types of business information

In your request for review, you referred to subsection 14 of the *FOIPP Act*, which applies when a business has supplied their business information in confidence to a public body and disclosure could reasonably be expected to cause some specific outcomes. Your concern is that there is a risk that someone may contact the three employees using these emails or phone numbers instead of using the methods of contact listed on your website.

There are three parts to the test for section 14 to apply, and all three parts must be satisfied before section 14 applies and a public body is required to withhold information. If all three parts of the test are not satisfied, then a public body is not authorized to withhold information under section 14 and must disclose it.

In order for section 14 to apply, the information must: (a) be trade secrets, commercial, financial, labour relations, scientific or technical information of the business that would be revealed if disclosed; (b) have

been supplied, explicitly or implicitly in confidence; and (c) be reasonably expected to result in one of the harms enumerated in clause 14(1)(c) of the *FOIPP Act*.

The information at issue is not any of the types of information listed at clause 14(1)(a). It would also not have been provided in confidence. In addition, the harm you have alleged would result if it were disclosed (i.e. someone could contact your employees directly, or a competitor could seek to hire one of your employees) is not one of the outcomes section 14 is intended to protect. Therefore, you have no reasonable prospect of substantiating that one, much less all three, conditions of section 14 of the *FOIPP Act* can be met.

Based on the above, it is plain and obvious that section 14 of the *FOIPP Act* does not apply, and there is no arguable case that merits an inquiry.

Subsection 37(2) - disclose minimum amount of personal information reasonably required

In your request for review, you referred to subsection 37(2) of the *FOIPP Act*, which requires a public body to limit the personal information they are disclosing to that which is reasonably required. You suggest that because the access request did not ask for personal information of responding individuals, the Public Body should have withheld the employee's names and business contact information.

Subsection 6(2) of the *FOIPP Act* says an applicant has a right to information, unless the public body is authorized or required to withhold the information under Division 2, of Part I of the *FOIPP Act*. Section 37 of the *FOIPP Act* is not under Part I. Further, as it was "business card" information, the Public Body would have been authorized to disclose it in any event, so section 37 would not apply.

In conclusion

As none of your grounds for requesting a review have a reasonable chance of success, in my opinion the circumstances do not warrant an inquiry. Therefore, I am refusing to conduct an inquiry on this basis under clause 64.1(b) of the *FOIPP Act*.

As I am refusing to conduct an inquiry in this matter, I will advise the Public Body that they may disclose the information at issue.

Sincerely,



Denise N. Doiron
Information and Privacy Commissioner

cc. APSO