

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## CYFSA Decision 18

Complaint FA20-00001

Durham Children's Aid Society

April 30, 2024

**Summary:** The complainant requested seven corrections be made to certain records in his Children's Services Record under Part X of the *Child, Youth and Family Services Act, 2017*. The Durham Children's Aid Society refused the correction request, and the complainant filed a complaint with the IPC for a review of the refusal. The complainant also challenged the reasonableness of DCAS's search for records responsive to his request and alleged that certain DCAS staff who were addressing his correction request were in a conflict of interest.

DCAS subsequently granted the complainant's request for two corrections. However, DCAS maintained that for the remaining five requested corrections the complainant had not demonstrated to its satisfaction that the records were inaccurate or incomplete, as required for the application of the duty to correct in section 315(9) of the *Act*.

In this decision, the adjudicator considers the correction provisions in the *Act* and upholds DCAS's decision that the duty to grant a correction in section 315(9) of the *Act* applies in respect of two of the seven requested corrections. She also concludes that DCAS has granted the two required corrections in compliance with sections 315(1) and 315(11) of the *Act*. Finally, the adjudicator upholds DCAS's refusal of the remaining requested corrections and the reasonableness of its search for responsive records, and she determines that the complainant's conflict of interest concern is unfounded. In the circumstances, no order is issued.

**Statutes Considered:** *Child, Youth and Family Services Act, 2017*, sections 314(1)(b), 315(1), 315(9), 315(11) and 315(12).

**Decisions Considered:** Order MO-3955.

## **BACKGROUND:**

[1] This decision considers the correction provisions of Part X of the *Child, Youth and Family Services Act* (the *Act*), and upholds the service provider's decision to make two of the seven corrections requested by the complainant and to refuse the remainder. This is the first CYFSA decision of the Information and Privacy Commissioner of Ontario (the IPC) to interpret and apply sections 315(1), (9) and (11) of the *Act*.

[2] Prior to Part X of the *Act* coming into force, the complainant submitted a request to the Durham Children's Aid Society (DCAS) for access to his file. In response, DCAS gave the complainant a copy of his Children's Services Record. The complainant is a former child in care who spent two and a half years in DCAS's care as a teenager almost two decades ago.

### **Correction Request**

[3] At the beginning of 2020, after Part X came into force, the complainant requested in writing that DCAS, which is a "service provider" under the *Act*,<sup>1</sup> correct his "record of personal information" pursuant to his correction rights under section 315 of Part X of the *Act*. After clarifying the complainant's correction request, DCAS issued a decision refusing the correction request under section 315(6) of the *Act* on the basis that it was frivolous or vexatious.

[4] The complainant was dissatisfied with DCAS's decision and filed a complaint about it with the IPC. The IPC attempted to mediate the complaint. During mediation, the complainant made a written request to DCAS for access to all its communications with him. In response to the access request, DCAS located records of its communications with the complainant between September 2018 and March 2020, and released them to him. Also, DCAS withdrew its claim that the complainant's correction request was frivolous or vexatious.

[5] During mediation, DCAS issued a revised decision under Part X of the *Act*. In its revised decision, DCAS advised the complainant that it had withheld from him records that are subject to federal legislation prohibiting disclosure, records that are subject to legal privilege, and records it had received from the Children's Aid Society of Toronto (CAST). To assist the complainant in clarifying his correction request, DCAS enclosed a paginated copy of his Children's Services Record and all his communications with DCAS from his time in care to the present, along with an index. The index noted the records from which information had been removed by DCAS for one of the three reasons set out above. DCAS also outlined the additional information it needed from the complainant to consider the possible correction of the records. These were: the page number and specific wording of the information he believes is inaccurate; the wording change he proposes to correct the record; and any supporting documentation he may have that would help DCAS

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<sup>1</sup> DCAS's status as a "service provider" under the *Act* is not in dispute.

confirm that the record change he requests is accurate.

[6] In July 2020, DCAS advised the complainant that it had obtained permission from CAST to provide the CAST records in his file to him. In September 2020, DCAS sent the complainant a revised paginated copy of his Children's Services Record and a revised index of records that included the CAST records. The complainant confirmed receipt of the September 2020 package from DCAS, including 2,015 pages of his Children's Services Record with the accompanying revised index. The complainant also confirmed that the 520 pages of communication records, the CAST records, and the redacted information noted in the revised index of records as "Removed" from his Children's Services Record were not at issue in his complaint.

### **Additional Complaint Issues**

[7] During mediation, the complainant questioned the reasonableness of DCAS's search for responsive records. He asserted that additional records should exist in the custody or control of DCAS beyond those already identified as responsive, including records relating to a named individual. Although DCAS provided explanations of its searches to the complainant, the complainant maintained his challenge and asked that the issue of reasonable search move forward for consideration at adjudication.

[8] Finally, the complainant expressed concern about a conflict of interest; specifically, that certain DCAS employees involved in the complaint process before the IPC were implicated in the omissions and errors he alleged were contained in his record that formed the basis of his complaint. The complainant named one staff member and explained that she had assumed responsibility for this file during mediation as the privacy lead and disclosure team supervisor. In response to the complainant's concern, DCAS advised that the current supervisor of their disclosure team would be assuming the role as the new point person in mediation. Nonetheless, the complainant maintained his concern about a conflict of interest. Accordingly, this was added as an issue to be addressed at adjudication.

### **Summary of the Requested Corrections**

[9] The complainant specified the seven corrections he wanted DCAS to make on the basis that the records are inaccurate. All seven of the corrections relate to alleged factual inaccuracies contained in, variously, an Ontario Serious Occurrence Inquiry Report [correction 1], a letter from DCAS to the complainant dated October 16, 2018 [corrections 2(a), (b), (c) and (d)], and several case notes in the complainant's Children's Services Record [corrections 3 and 4]. The seven corrections were sent to DCAS in November 2020, and DCAS responded in December 2020, refusing them. The corrections and DCAS's reasons for refusing most of them are all described in detail below.

[10] The complainant remained dissatisfied with DCAS's decision and asked that the complaint be moved to adjudication so that the correction, reasonable search, and conflict

of interest issues could be resolved.

### **The IPC Review**

[11] As the adjudicator of this complaint, I decided to conduct a review. I sent a Notice of Review to DCAS and invited its representations on the issues set out below. The Notice of Review asked the parties to submit with their representations any background materials and documentation that support their representations. I received DCAS's representations and considered them. I then shared them with the complainant. I sent the Notice of Review to the complainant and invited his representations in response to the issues below and to DCAS's representations. The complainant then asked that the complaint be placed on hold for a period. He subsequently provided representations.

[12] The complainant filed representations about the issues in the review. He also filed additional material, including a copy of his Children's Services Record from DCAS, various recordings, court documents and other miscellaneous documents. I have read and considered the complainant's written representations and considered the relevant portions of the additional material filed.

[13] The complainant asked to submit additional representations and materials in December 2023. I advised him that although I had concluded the review, if he had additional information that was "directly relevant to one of the issues in the complaint" he could provide it. The complainant continued to provide additional information until March 2024, including requesting a new correction. I considered any relevant information. However, I did not consider the newly requested correction as it is not within the scope of this complaint.<sup>2</sup>

### **The IPC cannot address complaints about DCAS's provision of services**

[14] I acknowledge the complainant's frustration with DCAS and his desire for justice regarding the serious wrongs he alleges he suffered while receiving DCAS services as a teenager. Throughout his representations and his communications with the IPC during the adjudication stage, he shared details about what he says happened to him when he was in DCAS's care. It is evident that the complainant has dealt with significant challenges throughout his life and has concerns about the services he received from DCAS many years ago. I have no authority under the *Act* to address those concerns about the services he received from DCAS and I make no findings about the complainant's allegations.

[15] My authority is limited to deciding how the correction provisions of the *Act* apply to the circumstances of his complaint and whether DCAS conducted a reasonable search for records responsive to his access request. I can also address the complainant's concern about a conflict of interest. Beyond these three issues, which are within the scope of the complaint, I have no jurisdiction to address the many complaints and allegations the

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<sup>2</sup> The complainant must follow the correction to records procedure set out in Part X and submit a written request (section 315(2) of the *Act*) to DCAS for any new correction he seeks.

complainant has made to me about DCAS's conduct and history of service to him.

[16] The complainant has also voiced his frustration about being restricted to written communications with DCAS throughout the IPC complaint process. The IPC repeatedly advised the complainant that it has no authority under the *Act* to tell DCAS how to communicate with him. The IPC has no operational or administrative control of DCAS; its jurisdiction is set out in the *Act*. My authority over DCAS in this complaint is limited to determining whether DCAS has a duty under the *Act* to make the requested corrections and whether it conducted a reasonable search for records.

## **RECORDS:**

[17] The records at issue are:

- the Ontario Serious Occurrence Inquiry Report (page 1378) [correction 1] regarding youth in independent living arrangements who may have received services from an individual, employed by an external contractor of DCAS, who was charged with first degree murder (referred to below as individual M)
- a letter dated October 16, 2018, from DCAS's Organizational Effectiveness and Service Relations Supervisor to the complainant (pages 1480-1483) [corrections 2(a), (b), (c) and (d)]
- the case notes between May 2, 2007 and July 19, 2007 (all references to a specific individual) [correction 3]
- the case note for August 17, 2007, and an email printout dated August 20, 2007 (pages 905 and 907) [correction 4].

## **ISSUES:**

- A. Is there a conflict of interest in relation to the involvement of certain DCAS staff in the complainant's Part X complaint?
- B. Does DCAS have a duty to make the requested corrections under section 315(9)?
- C. Has DCAS made requested corrections 2(a) and 2(b) in a manner that complies with sections 315(1) and 315(11) of the *Act*?
- D. Did DCAS conduct a reasonable search for records responsive to the complainant's request as required by section 314(1)(b)?

## **DISCUSSION:**

### **A. Is there a conflict of interest in relation to the involvement of certain DCAS staff in the complainant's Part X complaint?**

[18] The complainant claims that two DCAS staff involved in the complaint process have a conflict of interest with respect to his complaint because they were involved in the omissions and errors he alleges are contained in his records that formed the basis of his complaint. In my Notice of Review to the parties, I confirmed that there is no provision in the *Act* that addresses the conflict of interest issue raised by the complainant. However, I noted that many previous IPC orders have considered when a conflict of interest may exist in the context of the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* and the *Freedom of Information and Protection of Privacy Act (FIPPA)*.<sup>3</sup> I referred the parties to these orders, which canvassed conflicts of interest regarding access decisions (not decisions about correction requests) and noted that they are instructive.

[19] In particular, I referred the parties to the most recent IPC order to address a claim of a conflict of interest, Order MO-3955. Paragraphs 20-24 of Order MO-3955 succinctly summarized the principles that guide the IPC's approach, as follows:

A "conflict of interest" is commonly understood as a situation in which a person, such as an elected official or public servant, has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties.

In Ontario, there are various provincial laws and regulations that set out conflict of interest rules that apply, for example, to members of provincial parliament;<sup>4</sup> current ministry employees and public servants employed in and appointed to public bodies;<sup>5</sup> and members of municipal councils and local boards.<sup>6</sup> There is no provincial law or regulation that sets out conflict of interest rules for municipal employees but some municipalities may have bylaws or policies that include such rules. In addition, municipal employees are subject to conflict of interest obligations established in common law.

Previous IPC orders have considered the issue of conflict of interest with respect to staff at institutions that make decisions on access requests from

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<sup>3</sup> For example, Orders M-457, M-542, M-1091, MO-1285, PO-2381, PO-3056 and MO-3955.

<sup>4</sup> *Members' Integrity Act, 1994*, SO 1994, c 38.

<sup>5</sup> Ontario Regulation 381/07 of the *Public Service of Ontario Act, 2006*, SO 2006, c 35.

<sup>6</sup> *Municipal Conflict of Interest Act*, RSO 1990, c M50.

the public under [*MFIPPA*], such as a clerk.<sup>7</sup> In determining whether there is a conflict of interest these orders posed the following questions:

Did the decision-maker have a personal or special interest in the records?

Could a well-informed person, considering all of the circumstances, reasonably perceive a conflict of interest on the part of the decision-maker?

These questions are not intended to provide a precise standard for measuring whether or not a conflict of interest exists in a given situation. Rather, they reflect the kinds of issues which need to be considered in making such a determination.

In carrying out their functions under [*MFIPPA*], staff at institutions that make decisions on access requests from the public must comply with precise procedural obligations. However, those obligations are not equivalent to the impartiality that is required of a judge or an administrative decision-maker whose primary function is adjudication.<sup>8</sup>

[20] I see no reason in the circumstances of this complaint to depart from the IPC's established approach to addressing conflict of interest claims to address the complainant's claim under the *Act*. Applying this approach to the complaint, I will consider whether the involvement of the DCAS staff identified by the complainant in his correction request was such that a well-informed person, considering all of the circumstances, could reasonably perceive a conflict of interest in the processing of the correction request.

[21] The complainant's representations on this issue focus on allegedly false statements that the complainant says were made about him by two DCAS staff: DCAS's Organizational Effectiveness and Service Relations Supervisor, and the individual who was designated as the point person for the complainant's communications with DCAS following his allegation of a conflict of interest against the Organizational Effectiveness and Service Relations Supervisor. The complainant asserts that these two staff members falsely claimed that he "threatened, harassed and intimidated" DCAS staff and focused on false opinions about him. He also asserts that these staff members have shown bias against him by repeating factually incorrect information about him in existing records that has been used to interfere with his ability to communicate his concerns to DCAS orally. The complainant also indicates that the communication restriction DCAS placed on him is evidence of a conflict of interest or bias on the part of the DCAS.

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<sup>7</sup> See, for example, Orders M-640, MO-1285, MO-2073, MO-2605, MO-2867, MO-3204, MO-3208, PO-2381, MO-3513-I and MO-3672.

<sup>8</sup> Order PO-2381, which cited *Imperial Oil Ltd. v Quebec (Minister of the Environment)*, [2003] 2 SCR 624, 2003 SCC 58 (CanLII).

[22] DCAS denies the complainant's allegation of a conflict of interest. It states that its staff members have no private or personal interest that would appear to influence the objective exercise of their professional duties. It explains that the staff member named by the complainant, who wrote the October 16, 2018 letter that is the subject of correction requests 2(a), (b), (c) and (d), wrote it in her role as Organizational Effectiveness and Service Relations Supervisor, in her professional capacity, and the letter reflects the proper authority of her role. DCAS adds that, as stated in the letter, part of that role was acting as a point of contact for complaints. DCAS states that the records at issue are not personal records of that staff member, do not relate to any private interest of the staff member or her family, and do not comment on her personal life or situations outside her professional role.

[23] DCAS submits that when a correction request is made, the author of a record will necessarily be involved in considering the correction request as the person within the organization who is best situated to determine whether there is incomplete or inaccurate personal information to be corrected. It further submits that it was appropriate and necessary for that staff member to be involved in responding to the complainant's correction requests. DCAS notes that section 315 of the *Act* does not state that the author of the record cannot be consulted when DCAS is considering whether the correction requested is a professional opinion or observation; presumably, the professional opinion or observation relates to the author, in this case, the named staff member. DCAS argues that a well-informed person would not perceive a conflict of interest in these circumstances.

[24] Having considered the complainant's representations, I disagree with his position. The complainant's representations do not establish that the two DCAS staff members he identified have a personal or special interest in the records he wants corrected. They do not identify a personal or special interest at all; they assert that the staff members are biased and in a conflict of interest for having relied on allegedly inaccurate information about the complainant and for having restricted him to written communications with DCAS.

[25] There is no basis for me to conclude that a well-informed person, considering all of the circumstances, could reasonably perceive a conflict of interest on the part of the two DCAS staff members with respect to the performance of their duties in the complainant's correction request. The complainant's disagreement with the communication restrictions placed on him by DCAS and with DCAS's denial of his correction request, do not establish that these two staff members have a personal or special interest in DCAS's response to the request or the eventual complaint to the IPC. Having concluded that there is no evidence the two staff members have a personal or special interest in the records the complainant wants corrected or in the communication protocol DCAS imposed on him, and that a well-informed person could not reasonably perceive a conflict of interest in the circumstances of the two staff addressing the complainant's correction request, I find there is no conflict of interest in this complaint.



**B. Does DCAS have a duty to make the requested corrections under section 315(9)?**

[26] Section 315 of the *Act* addresses corrections to records. The section 315 correction provisions, like the access provisions at sections 312 through 314 of the *Act*, apply to records of "personal information." Section 315(2) states that if a service provider has granted an individual access to "a record of personal information" and the individual believes that the record is "inaccurate or incomplete, the individual may request in writing that the service provider correct the record." There is no dispute that the records at issue – the Ontario Serious Occurrence Inquiry Report, the October 16<sup>th</sup> letter, and the case notes – all contain the complainant's personal information and constitute "a record of personal information." Nor is there any dispute that the complainant is permitted to request the corrections at issue.

***The duty to correct - section 315(9)***

[27] Section 315(9) of the *Act* requires a service provider to grant a requested correction if two conditions are met: the individual requesting the correction demonstrates "to the service provider's satisfaction" that the record is inaccurate or incomplete and provides the information needed to correct the record. Section 315(9) states:

315(9) The service provider shall grant a request for a correction if the individual demonstrates, to the service provider's satisfaction, that the record is inaccurate or incomplete and gives the service provider the information necessary to enable the service provider to correct the record.

[28] However, the duty to correct imposed by section 315(9) on service providers is further qualified. There are two exceptions to the duty to correct and they are set out in paragraphs (a) and (b) of section 315(10), which state:

315(10) Despite subsection (9), a service provider is not required to correct a record of personal information if,

(a) it consists of a record that was not originally created by the service provider and the service provider does not have sufficient knowledge, expertise or authority to correct the record; or

(b) it consists of a professional opinion or observation that was made in good faith about the individual.

[29] Read together, sections 315(9) and 315(10) dictate that the duty to correct arises only when the two conditions in section 315(9) are satisfied and neither of the exceptions in paragraphs (a) and (b) of section 315(10) applies.

[30] As will be seen in my reasons that follow, only section 315(9) is engaged in this

complaint.

***Has the complainant demonstrated, to DCAS's satisfaction, that the record is inaccurate or incomplete, as required by section 315(9)?***

[31] Section 315(9) requires an individual asking for the correction to do two things:

- demonstrate to the satisfaction of the service provider that the record is inaccurate or incomplete, and
- give the service provider the information necessary to enable the service provider to correct the record.

[32] This means that, for the duty to correct to arise, the complainant must demonstrate to DCAS's satisfaction that the records he wants corrected are inaccurate or incomplete, and he must give DCAS the information necessary to enable DCAS to correct the records. The duty to correct in section 315(9) is conditional on the service provider being satisfied that the record is inaccurate or incomplete; it empowers the service provider to determine whether it is satisfied and whether the duty is engaged.

[33] In the Notice of Review that I sent to the parties, I asked them to address these two conditions in section 315(9) with respect to each correction requested by the complainant in the records at issue. Below, I summarize the parties' representations and my analysis and findings, by correction.

*Correction 1 [Ontario Serious Occurrence Inquiry Report at page 1378]*

[34] This report concerns individual M, a Supported Independent Living (SIL) employee of a counselling service who provided services to the complainant and other youth in independent living arrangements, and who was charged with first degree murder of an individual. The report was authored by DCAS's Serious Occurrence Supervisor at the time that individual M was charged and it identifies the youth who received services from individual M and who may have been impacted by the charge. The report does not relate to the complainant alone; it indicates that DCAS provided supportive intervention to "the youth," including the complainant. The complainant claims that the section of the report titled "Action Taken" contains the inaccurate statement "supportive intervention provided to the youth." The complainant asserts this statement is inaccurate because he did not receive any supportive intervention following the incident reported in this record.

[35] DCAS refuses the correction. It asserts that although the complainant disagrees with the statement, he has not demonstrated that the statement is inaccurate or incomplete. DCAS argues that the statement reflects the professional opinion or observation documented contemporaneously by the Serious Occurrence Supervisor, who had over two decades of employment in various roles at DCAS at the time and a Bachelor of Social Work. DCAS submits that the supervisor would have had information and/or observations about interventions provided to the youth and was reporting her view and/or

opinion that they were supportive in nature given the circumstances. DCAS adds that it interviewed the now retired supervisor and the complainant's Children's Service Worker at the time the report was written, as part of its internal investigation into the complainant's broader complaints, and neither was able to provide the specifics of the supportive intervention provided to the youth nearly 17 years ago. DCAS asserts that the complainant provides no evidence that the report was falsified or written in bad faith.

[36] In response, the complainant notes the fact that his Children's Service Worker is not aware of any supportive intervention provided and the lack of any other report or record confirming that supportive intervention was provided. He also refers to a phone call with DCAS's former Executive Director that he argues confirms that he did not receive supportive intervention. Finally, he asks that the report be corrected and sent in its corrected form to the ministry, the police and everywhere else it was sent as part of the criminal investigation into the murder.

*DCAS is not required to grant the complainant's request for correction 1*

[37] Section 315(9) requires the complainant to "demonstrate to the satisfaction" of DCAS that the report is inaccurate or incomplete and to give DCAS "the information necessary to enable" DCAS to correct the record. DCAS's representations confirm that it considered the complainant's position and reasons for requesting the correction but was not satisfied that the report is inaccurate. Having examined the record and considered the parties' representations, I agree with DCAS's decision to deny correction 1.

[38] The report concerns other youth, whose names are redacted in the record the complainant received, and the statement "supportive intervention provided to the youth" refers to these other youth and the complainant. While the complainant's assertion that he did not receive supportive intervention may be correct, it addresses the statement only as it relates to him; it does not and cannot address whether that statement is inaccurate or incomplete with respect to the other youth the statement concerns.

[39] Because the report relates to youth other than the complainant and the complainant's assertion does not address whether the statement is inaccurate or incomplete with respect to those other youth, I accept DCAS's not being satisfied that the statement in the report is inaccurate or incomplete. Thus, the first requirement for the application of the duty to correct in section 315(9) is not met in respect of correction 1. I accept that DCAS does not have a duty under section 315(9) to make correction 1 as requested by the complainant.

[40] In accepting DCAS's position, I also note that DCAS has invited the complainant to prepare a concise statement of disagreement that sets out his proposed correction. It has also confirmed that it will attach any statement of disagreement to this record and

disclose the statement whenever this record is requested or disclosed in the future.<sup>9</sup>

*Corrections 2(a), (b), (c) and (d) [October 16, 2018, letter at pages 1480-1483]*

[41] This letter, sent by DCAS's Organizational Effectiveness and Service Relations Supervisor to the complainant, has no subject line but addresses several complaints that the complainant lodged with DCAS. It states that the supervisor has consulted and reviewed those complaints with the DCAS internal team and concluded that none of the complaints are currently within DCAS's scope. The letter responds to specific "worries" of the complainant, lists options for him and invites him to advise what next steps he prefers. The letter also suggests that the complainant may wish to seek legal advice to assist him with his concerns. Finally, it states that DCAS would like to work with him to address his worries that fall under DCAS's scope in a timely manner, however, it may have to seek legal advice to ensure the safety and security of its staff if its staff feels threatened or harassed by the complainant's telephone calls. The complainant seeks the correction of four statements in the letter.

*Correction 2(a) [page 1481]*

[42] The complainant argues that the assertion, at paragraph 4 of page 1481, that he did not receive supportive intervention (noted in the Ontario Serious Occurrence Inquiry Report at issue in correction 1) because he was "unreachable" is inaccurate and should be corrected. DCAS initially refused this requested correction, asserting that page 1481 reflects DCAS's response to the complainant's initial complaints at a particular point in time, and that the statement "there were times that you were unreachable" is accurate, though that appears not to have been the case for the period in question.

[43] In its representations, DCAS explains that the statement that the complainant was "unreachable" suggests that it is possible that if supportive intervention was not provided to the complainant after the arrest of his SIL worker (individual M), it could have been because DCAS was not able to contact him. However, DCAS acknowledges that there are records that show the complainant's DCAS worker was in contact with him at the time that the Serious Occurrence Inquiry Report was completed. As a result, DCAS states that it agreed to add a note to the letter at page 1481 to reflect that the complainant was not unreachable during this period. Specifically, DCAS explains that it did this by adding a contact log into the Child Protection Information Network (CPIN)<sup>10</sup> record with the heading "Record Correction October 16, 2018" and dated October 16, 2018, so that it is located sequentially. This contact log states:

Regarding the statement that he might not have received supportive services because unreachable: While this was the honestly held belief of Ms. [name of Organizational Effectiveness and Service Relations Supervisor]

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<sup>9</sup> The statement of disagreement option that is available to the complainant is discussed further in Issue C, below.

<sup>10</sup> CPIN is the provincial information technology documentation system used by Children's Aid Societies.

at the time, it is now understood that [the complainant] was not unreachable.

[44] DCAS maintains that the letter itself is not inaccurate or incomplete because it reflects DCAS's response to the complainant's complaints at a particular point in time. In his representations, the complainant states that he wants the correction made by DCAS to also say that: there are no records of DCAS or anyone stating that he was unreachable at the time; that this information has only ever come from the Organizational Effectiveness and Service Relations Supervisor and that she used uncorroborated and knowingly false information since she could not have known whether he was unreachable; he was reachable and in contact with both his SIL and DCAS worker at the time.

*DCAS is required by section 315(9) to grant the complainant's request for correction 2(a) and has granted this correction request*

[45] The complainant has demonstrated, to DCAS's satisfaction, that the statement (that he was not reachable at the time that the Ontario Serious Occurrence Inquiry Report at issue in correction 1 was completed) is inaccurate, meeting the first requirement for the application of the duty to correct in section 315(9). The complainant has also provided DCAS with information about the fact that he was not "unreachable" at the time the report was created, meeting the second requirement of section 315(9) of the *Act*.

[46] DCAS has corrected this statement by adding a new contact log in CPIN immediately after the letter, as set out in paragraph 41 above, and has given him notice of this correction. The complainant's representations indicate that he is not satisfied with DCAS's correction to page 1481 of the letter because he wants specific additional information included in the correction. In Issue C, below, I address whether the correction made by DCAS regarding correction 2(a) complies with the correction requirements of the *Act*.

*Correction 2(b) [page 1481]*

[47] The complainant requests that the assertion, at paragraph 2 of page 1481 of the letter – that he turned his 2007 residence into a "crack house" – be corrected or omitted because it is factually incorrect. The assertion appears in this sentence of the letter:

In looking at the file from that time, there does appear to have been concerns raised by the landlord to [the counselling service providing SIL service to the complainant] that as a result of drug use by youth including yourself, the premises was turning into a "crack house."

[48] The complainant asserts that the case note found at page 964 shows that the residence was being used as a "crack house" before the complainant was living there, and the page 907 case note of August 15, 2007 states that he is about to be moved into the residence. The complainant argues that this establishes that DCAS's Children's Service Worker knew it was a "crack house" before the complainant moved in.

[49] DCAS initially refused correction 2(b) on the basis that the letter reflects DCAS's response to the complainant's initial complaints at a particular point in time. However, in its representations, DCAS acknowledges that the letter author's interpretation of the case notes from the time may have led to an incorrect conclusion about the complainant's involvement in turning the premises into a "crack house." DCAS explains that it added a note to the letter in its files to reflect that its contemporaneous records do not show that the complainant had any involvement in turning any premises into a "crack house." Specifically, DCAS did this by adding a note to the CPIN record contact log "Record Correction October 16, 2018" that it used for correction 2(a), as described above. The note for correction 2(b) says:

Regarding the statement that complainant was involved in turning the premises into a crack house: The contemporaneous records do not show that [the complainant] had involvement in turning any premises into a "crack house."

[50] DCAS states that it cannot correct this record by changing the wording of the letter, since the letter is a complete and accurate reflection of DCAS's response to the complainant on October 16, 2018. However, it states that it invited the complainant to prepare a concise statement of disagreement that sets out the proposed correction and DCAS will attach it to the record.

[51] In his representations, the complainant says the correction he is requesting is the insertion of DCAS's acknowledgement that its staff intentionally forced him to live in a "crack house" that was used as a place for other youth in care receiving SIL services. He also requests that the names of all DCAS staff who were/are aware that DCAS intentionally made him live in a "crack house" be put into the record and he lists eight staff members that he asserts had/have knowledge of the inaccurate statement.

*DCAS is required by section 315(9) to grant the complainant's request for correction 2(b) and has granted this correction request*

[52] The complainant has demonstrated, to DCAS's satisfaction, that the assertion that he was involved in turning his prior residence into a "crack house" is inaccurate, meeting the first requirement for the application of the duty to correct in section 315(9). The complainant has also provided DCAS with information about the fact that he was not involved in turning his residence into a "crack house," meeting the second requirement of section 315(9) of the *Act*.

[53] DCAS has corrected this statement by adding a note in the new contact log in CPIN immediately after the letter, as set out in paragraph 47 above, and has given him notice of this correction. DCAS has also confirmed that it will attach any statement of disagreement the complainant provides to the record.

[54] The complainant's representations indicate that he is not satisfied with DCAS's

correction regarding correction 2(b) because he wants specific additional information included in the record to reflect his allegation that DCAS intentionally made him live in a "crack house." In Issue C below, I address whether the correction made by DCAS regarding correction 2(b) complies with the correction requirements of the *Act*.

*Correction 2(c) [page 1482]*

[55] The complainant requests that the comments at page 1482 of the letter regarding his "threatening, intimidating and harassing" phone calls and behaviour be omitted because they are an inaccurate description of his conduct with DCAS staff. The complainant states that the author of the letter admitted to him during a phone call that these comments are inaccurate.

[56] DCAS submits that correction 2(c), the comments at page 1482 regarding the "threatening, intimidating and harassing" calls, does not contain the complainant's personal information. It states that the references in the letter (at pages 1480 to 1483 of the records) that use the words "threatening, intimidating and harassing" are the following:

I am also worried that if you do continue to call and show your anger through yelling, swearing and confrontational language like you did on the phone to IRT worker, [three named DCAS staff members on three specific dates in 2018] that our staff may continue to feel threatened and harassed.

. . . .

3. I will need to know that our staff are not feeling threatened or harassed at any time.

a) If your calls are perceived by staff as being threatening, intimidating or harassing they will be advised to terminate the call.

b) If you chose to continue calling our staff with the same approach, we may have to explore seeking legal advice to ensure the safety and security of our staff members.

[57] DCAS argues that these statements are contingent and express worry about future conduct; they contain information about the feelings of DCAS staff and not about the complainant. DCAS states that they are statements communicating what its response will be if the complainant's possible future conduct causes staff to feel threatened, intimidated or harassed. DCAS submits that these comments are not the complainant's personal information under the *Act*. In the alternative, DCAS argues that the statements should not be corrected because they are professional opinions or observations about how staff were feeling, and the observations of what the complainant was doing at the time, which were recorded in good faith in a contemporaneous note.

[58] The complainant's representations on this correction focus on why he believes his behaviour was not threatening, intimidating or harassing, and why he believes the comments he wants corrected are inaccurate. He provides a recording of the phone call in which he claims the author of the letter admits that staff did not report feeling "threatened or harassed."

*DCAS is not required to grant the complainant's request for correction 2(c)*

[59] Section 315(9) requires the complainant to "demonstrate to the satisfaction" of DCAS that the record, in this case, the letter, is inaccurate or incomplete and to give DCAS "the information necessary to enable" DCAS to correct the record.

[60] Although DCAS argues that the information at issue in correction 2(c) should not be corrected because it is not the complainant's personal information, I reject this argument because it disregards the wording of section 315(9).<sup>11</sup> Section 315(9) does not require that the inaccurate information be the personal information of the individual requesting the correction; it requires only that the record be a record of personal information and that it be inaccurate. As I found in paragraph 26, above, all the records at issue in this decision are records of the complainant's personal information.

[61] DCAS's representations confirm that it considered the complainant's position and decided it is not satisfied that the comments about the complainant's behaviour being threatening, intimidating, or harassing are inaccurate, as argued by the complainant. DCAS asserts that the comments reflect how its staff were feeling and observations of what the complainant was doing at the time. I accept DCAS's assertion that the statement accurately reflects how its staff were feeling when the letter was written. Having listened to the recorded phone call, I am not convinced that it demonstrates that the comments in the letter are inaccurate or incomplete, as required for the application of section 315(9) of the *Act*. Contrary to the complainant's assertion, the author of the letter does not admit that staff did not report feeling "threatened or harassed" in the recording of this phone call. I agree with DCAS's decision that it is not satisfied that the record is inaccurate and, thus, it does not have a duty under section 315(9) to make correction 2(c) as requested by the complainant.

*Correction 2(d) [page 1480]*

[62] The complainant requests that the statement in paragraph two of page 1480 be corrected because it is inaccurate. That statement reads:

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<sup>11</sup> DCAS makes this same argument in its representations on corrections 2(d) and 3, below. In light of my rejection of this argument for the reasons that follow, I will not repeat this argument in the remainder of this decision.



I will add that I have consulted and reviewed your complaints with our internal team and we do not believe that any of them are currently within our scope.

[63] The complainant argues that the author of the letter should know that possible exposure to abuse and neglect while a child is in care, the substance of the complaints referred to, is indeed within the scope of DCAS's mandate. DCAS initially refused this requested correction on the basis that it is not inaccurate. In his representations, the complainant does not directly address correction 2(d). In its representations, DCAS submits that this statement is about DCAS's belief or opinion about whether the complainant's complaints were currently within DCAS's scope. It asserts that the statement is not inaccurate or incomplete – it accurately reflects DCAS's interpretation of its own mandate and its belief about its ability to address the complainant's complaints.

*Correction 3 [all references to a specific individual in the case notes between May 2 and July 19, 2007]*

[64] The complainant submits that some of the records mistakenly identify an individual. He explains that two individuals (H and M) who worked with him in the independent living area had the same first name, spelled differently. He asks that any reference to individual H between May 2 and July 19, 2007, be changed to the name of individual M who worked with the complainant from May 2 to July 19, 2007. He explains that individual H started working with him after July 19, 2007. DCAS refused correction request 3 on the basis that the complainant did not demonstrate that the references are inaccurate.

[65] In its representations, DCAS states that there are two references to individual H between May 2 and July 19, 2007, in case notes prepared by the complainant's Children's Services Worker on June 8 and 14, 2007 (at pages 942 and 952). DCAS asserts that these references are not inaccurate; they were made by a person who had knowledge of the facts at the time and was recording the events contemporaneously as they occurred. DCAS states that it has no evidence to suggest that the references are inaccurate or do not reflect what the Children's Services Worker believed to be accurate information at the time about the name of the person to whom she was referring in her notes. DCAS explains that at the relevant time, individual H was a supervisor employed by a counselling service that was an external contractor for DCAS, while individual M was a SIL worker who worked under contract with the same counselling service.

[66] In response to DCAS's representations on this issue, the complainant explains that he was a client of individual M at the time that she was charged with murder. He alleges that the pages referencing individual H prior to the murder charge are handwritten and have been falsified. He also states that individual H could not have been working with him prior to the arrest of individual M.

*DCAS is not required to grant the complainant's request for correction 2(d)*

[67] DCAS's representations confirm that it considered the complainant's request and the reasons for it and was not satisfied that the statement is inaccurate. I agree with DCAS that the statement the complainant wants corrected reflects DCAS's interpretation of its mandate and its belief about its ability to address the complainant's complaints. While the complainant disagrees with the DCAS's interpretation of its mandate with respect to the complaints made, there is no evidentiary basis for me to conclude that the statement was nonetheless an honest reflection of its view on the matter. Accordingly, I accept DCAS's decision that it is not satisfied the correction 2(d) request is inaccurate. The first requirement for the application of the duty to correct in section 315(9) is not met in respect of correction 2(d). As a result, I agree that DCAS does not have a duty under section 315(9) to make correction 2(d) as requested by the complainant.

*DCAS is not required to grant the complainant's request for correction 3*

[68] DCAS's representations confirm that it considered the complainant's request and the reasons for it in refusing to grant correction 3. Having reviewed the records, I accept DCAS's assertion that the references are not inaccurate and were made by a person who had knowledge of the facts at the time and was recording the events as they occurred. These references relate to two different individuals who held different roles at the same counselling service, but who happened to have the same first name.

[69] The complainant's assertion that individual H became involved in his DCAS file only after individual M was arrested, is not reflected in the records; there is nothing beyond the complainant's assertion to support the conclusion that individual H was inaccurately identified in the records at issue. There is also nothing before me that would lead me to conclude that the handwritten case notes at pages 942 and 952 have been falsified or changed. I agree with DCAS's decision that it is not satisfied that the references to individual H in case notes at pages 942 and 952 are inaccurate. Thus, the first requirement for the application of the duty to correct in section 315(9) is not met in respect of correction 2(d). As a result, I accept that DCAS does not have a duty under section 315(9) to make correction 2(d), as requested by the complainant.

*Correction 4 [pages 905 and 907]*

[70] The complainant requests that the case note at page 905 for August 17, 2007, and the email printout at page 907 for August 15, 2007, be corrected because they are inaccurate. Specifically, the complainant asserts that these case notes should not say that the complainant's grocery money was reduced due to eviction and a need for DCAS to pay the money back to the landlord – he says this latter detail is incorrect. The complainant explains that the second paragraph of page 911 shows that DCAS received money back from the landlord – the last month's rent – so there is no basis for saying DCAS needed to recoup money lost on account of the complainant's eviction.

[71] DCAS refused correction 4 on the basis that the complainant had not demonstrated that the case note and email are inaccurate. Also, DCAS asserted that it could not correct the email at page 907 that it received from an individual who was not a DCAS employee.

[72] In his representations, the complainant alleges that a DCAS employee intentionally removed him from care and then collected his rent and grocery money while he was no longer in care. The complainant refers to various pages of the records that he claims show how and when his rent and grocery money was stolen by a specific DCAS employee.

[73] In its representations, DCAS asserts that the case note at page 905 and the email at page 907 are not inaccurate. It states that the case note, prepared by the complainant's Children's Services Worker, was recording something a SIL worker told him regarding a decrease in his cash allowance. DCAS states that page 907 is a printout of an email from another SIL worker who is not a DCAS employee to the complainant's Children's Services Worker providing the address and landlord information for the complainant's new apartment. DCAS argues that both of these records reflect information in DCAS's file that was collected and recorded in the ordinary course, and it has no reason to believe that the complainant's Children's Services Worker did not accurately record the information that she was told regarding payments to and from the landlord.

*DCAS is not required to grant the complainant's request for correction 4*

[74] DCAS's representations confirm that it considered the complainant's request and the reasons for it when it refused to make correction 4. I accept DCAS's assertion that the references are not inaccurate because they reflect the information that the DCAS employee received from the SIL worker. Even if the complainant is right that the SIL worker provided inaccurate information, the record is still an accurate reflection of the information DCAS received. As a result, I agree with DCAS's decision that it is not satisfied that the statements the complainant wants corrected in correction 4 are inaccurate. As the first requirement for the application of the duty to correct in section 315(9) is not met in respect of correction 4, I accept that DCAS does not have a duty under section 315(9) to make this correction.

**C. Has DCAS made requested corrections 2(a) and 2(b) in a manner that complies with sections 315(1) and 315(11) of the Act?**

[75] Because the complainant appears to challenge the way that DCAS has made the corrections to the records in respect of corrections 2(a) and 2(b), I will consider the application of section 315(1), which explains what action qualifies as a correction to a record, and section 315(11), which explains the appropriate manner for making a correction. I included these two correction provisions in my Notice of Review to the parties and asked the parties to consider them. These sections read:

315(1) In this section, a reference to a correction to a record or to correct a record includes the addition of, or adding, information to make the record complete.

(11) Upon granting a request for a correction, the service provider shall,

(a) make the requested correction by,

(i) recording the correct information in the record and,

(A) striking out the incorrect information in a manner that does not obliterate the record, or

(B) if that is not possible, labelling the information as incorrect, severing the incorrect information from the record, storing it separately from the record and maintaining a link in the record that enables a person to trace the incorrect information, or

(ii) if it is not possible to make the requested correction in the manner set out in subclause (i), ensuring that there is a practical system in place to inform a person who accesses the record that the information in the record is incorrect and to direct the person to the correct information;

(b) give notice to the individual of what has been done under clause (a); and

(c) at the request of the individual, give written notice of the requested correction, to the extent reasonably possible, to the persons to whom the service provider has disclosed the information with respect to which the individual requested the correction of the record, unless the correction cannot reasonably be expected to have an effect on the ongoing provision of services.

[76] DCAS's representations contain a general statement about corrections made in the CPIN. DCAS states that there are limits to how records can be corrected in CPIN because original records cannot be destroyed and their original form cannot be modified. DCAS states that any changes it has agreed to make are done by adding new notes – called "contact logs" in the field – to the existing CPIN record. DCAS explains that CPIN was adopted by Children's Aid Societies in the past decade; for records that were created and closed prior to CPIN's adoption (like the complainant's records), Children's Aid Societies correct records by adding a new note to the record (within CPIN) indicating the correction. DCAS notes that the complainant's record has been corrected by adding a new note to the record in CPIN indicating the correction.

[77] The complainant does not address sections 315(1) or 315(11) in his representations, but, as outlined throughout Issue B, above, the complainant has stated how he would like the various corrections to be made.

[78] Applying these sections of the *Act* to correction 2(a) as made by DCAS, I am satisfied that DCAS had made correction 2(a) as prescribed by the *Act*. Specifically, DCAS has corrected the letter by "adding information" to CPIN, in accordance with section 315(1). DCAS has explained that it has added a new note in the existing CPIN record of the letter correcting the statement that the complainant was not reachable. This manner of correction complies with section 315(11)(a)(ii) of the *Act*. Also, DCAS has given notice to the complainant of what has been done under section 315(11)(a)(ii) by explaining in its representations how it has made this correction. Because DCAS has made correction 2(a) in the manner authorized by sections 315(1) and 315(11)(a)(ii) of the *Act* and has given the complainant notice of the correction, I find this aspect of the complaint to be resolved.

[79] Applying sections 315(1) or 315(11) of the *Act* to correction 2(b) as made by DCAS, I am satisfied that DCAS had made correction 2(b) as prescribed by the *Act*. Specifically, DCAS has corrected the letter by "adding information" to CPIN, in accordance with section 315(1). DCAS has explained that it has added a new note in the existing CPIN record of the letter correcting the statement that the complainant turned his residence into a "crack house." This manner of correction complies with section 315(11)(a)(ii) of the *Act*. Also, DCAS has given notice to the complainant of what has been done under section 315(11)(a)(ii) by explaining in its representations how it has made this correction. Because DCAS has made correction 2(b) in the manner authorized by sections 315(1) and 315(11)(a)(ii) of the *Act* and has given the complainant notice of the correction, I find this aspect of the complaint to be resolved.

### **The complainant may provide a statement of disagreement**

[80] I note that DCAS has invited the complainant to provide a concise statement of disagreement, as contemplated by section 315(12) of the *Act*. Although the complainant has not provided a concise statement of disagreement to date, he retains his right to do so under section 315(13), and he may provide a statement of disagreement that contains all the corrections he seeks.

[81] Sections 315(12) and 315(13) state:

(12) A notice of refusal under subsection (4) or (5) must give the reasons for the refusal and inform the individual that the individual is entitled to,

(a) prepare a concise statement of disagreement that sets out the correction that the service provider has refused to make;

(b) require that the service provider attach the statement of disagreement as part of the records that it holds of the individual's

personal information and disclose the statement of disagreement whenever the service provider discloses information to which the statement relates;

(c) require that the service provider make all reasonable efforts to disclose the statement of disagreement to any person who would have been notified under clause (11)(c) if the service provider had granted the requested correction; and

(d) make a complaint about the refusal to the Commissioner under section 316.

(13) If a service provider refuses a request for a correction, in whole or in part, or is deemed to have refused the request, the individual is entitled to take any of the actions described in subsection (12).

**D. Did DCAS conduct a reasonable search for records responsive to the complainant's request as required by section 314(1)(b)?**

[82] As noted above, the complainant questions whether DCAS conducted a reasonable search for records responsive to his request for his complete file with DCAS. In particular, he asserts that additional records naming a specific individual should exist.

[83] The IPC has consistently held that to be responsive to a request, a record must be "reasonably related" to the request.<sup>12</sup> The IPC has also consistently held that a reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records that are reasonably related to the request.<sup>13</sup> Previous IPC decisions, including CYFSA Decision 4, have found that a requester must provide a reasonable basis for concluding that additional records exist.

[84] The complainant argues that DCAS conducted a "grossly negligent and malfeasant search that fabricated information." In support of his argument, he refers to correction 2(d) and his allegation that the name of his second case worker is incorrectly documented in some of the records. He also submits that there are "next to no records" of him working with his first case worker, even though there should be.

[85] DCAS provides an affidavit from its Organizational Effectiveness and Service Relations Supervisor about its search for responsive records. In the affidavit, the Supervisor confirms that she has held this position for two years and has been the Privacy Lead for 10 months. She provides a detailed summary of the various searches DCAS carried out: the names of the DCAS staff who conducted the searches, the places that were searched, the types of files that were searched, and the time and results of the

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<sup>12</sup> Order PO-2554, adopted in CYFSA Decision 4, which was the first CYFSA decision to consider the issue of reasonable search under sections 313 and 314 of the *Act*.

<sup>13</sup> Orders M-909, PO-2469 and PO-2592.

searches. Specifically, the affidavit confirms that DCAS searched its legacy systems (Caselook), CPIN, the complainant's Child in Care file, DCAS's serious occurrence filing cabinet, historical email and DCAS staff communications with the complainant.

[86] I accept the affidavit evidence of DCAS. I find that the affidavit is adequate evidence that DCAS conducted a reasonable search for responsive records, which resulted in over 2000 pages of responsive records being located and provided to the complainant. When I consider DCAS's comprehensive approach, the complainant's submissions do not provide a reasonable basis for me to conclude that additional records exist. I uphold DCAS's search as reasonable.

**NO ORDER:**

For the foregoing reasons, pursuant to section 321(1) of the *Act*, I uphold DCAS's decision and issue no order.

Original Signed by: \_\_\_\_\_  
Stella Ball  
Adjudicator

\_\_\_\_\_ April 30, 2024