



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-30

Appeal M-910250

City of Sudbury



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ORDER

BACKGROUND:

The City of Sudbury (the institution) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to "the names of all students who were awarded spring and summer jobs by the city in 1990 and to date in 1991". The requester subsequently clarified his request to specify that he wanted the names of temporary and part-time employees, including those who had been hired for summer jobs for the period of 1990 until May 17, 1991.

The institution denied access to the requested information under sections 14 and 32(c) of the Act, and the requester appealed the institution's decision. During mediation the institution withdrew its claim under section 32(c).

The record responsive to the request is a computer generated list. It identifies individuals who were hired prior to 1990 and who were either re-hired on a temporary or part-time basis in 1990 and/or 1991. The record contains the following information: the names of the individuals, their employee numbers, occupation code, employee status and termination dates (where applicable). The appellant is only interested in the names of the temporary and part-time employees, including those who have been hired for summer jobs for the period of 1990 until May 17, 1991.

Mediation efforts in this appeal were not successful. As a result, notice that an inquiry was being conducted to review the head's decision was sent to the institution and the appellant. Accompanying the notice was a report prepared by the Appeals Officer, intended to assist the parties in making representations to this office concerning the subject matter of the appeal.

In order to make those persons whose names appear in the record aware of the fact that an inquiry was being conducted and to provide them with information about the appeal and their right to make representations, a Notice of Inquiry was placed in the Sudbury Star and Le Voyageur on two separate days. Copies of these notices are attached to this order.

Representations were received from the institution and the appellant. No representations were received from any of the persons whose names appear in the record.

ISSUES:

The issues arising in this appeal are as follows:

- A. Whether the names which appear in the record qualify as "personal information", as defined in the Act.
- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the names which appear in the record qualify as "personal information", as defined in the Act.

In part, personal information is defined in section 2(1) of the Act as follows:

"personal information" means recorded information about an identifiable individual, including,

...

- (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

The appellant did not make any representations concerning whether the names which appear in the record qualify as "personal information".

The institution claims that the names which appear in the record constitute personal information because disclosure of the names would reveal other personal information about the individuals (i.e. the fact that they were hired for temporary or part-time jobs) within the meaning of subparagraph (h) of the definition of personal information. I agree with the institution's position.

ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies.

In its decision letter to the appellant, the institution claimed sections 14(2)(e), 14(2)(i) and 14(3)(d) as the basis for denying access to the requested information. During the course of processing the appeal, the institution indicated that it was no longer relying on section 14(3)(d), and added section 14(2)(f) in support of its exemption claim under section 14.

Section 14 of the Act prohibits the disclosure of personal information except in certain circumstances. Specifically, section 14(1)(f) of the Act reads as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Section 14(4) of the Act identifies particular types of information, the disclosure of which does not constitute an unjustified invasion of personal privacy. Section 14(4)(a) reads:

Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution;

It is my opinion that the words "[d]espite subsection (3)" do not limit the application of section 14(4) to those types of information identified in section 14(3), rather they identify types of information that the legislature clearly intended to fall within the exception contained in section 14(1)(f) [Order M-23].

In its representations, the institution submits that section 14(4)(a) does not apply to the names which appear in the record. The institution states:

This organization treats its relationship with its employees as confidential. It will not expose its employees to unwanted or harmful results by releasing the employee's name or acknowledging that the person is indeed an employee.

I acknowledge the concerns raised by the institution, however, I think they can best be characterized as a general comment about what the institution sees as its obligations to its employees. As I see it, to accept the institution's submission is to say that the public is not entitled to know the names of persons who are or have been employed by the institution, with salaries or wages paid for by tax dollars, to serve them and look after their interests.

In my opinion, the institution has ignored what I believe are the requirements of section 14(4)(a). In my view, section 14(4)(a) was included in the Act to ensure an adequate level of public access to certain types of information relating to employees of institutions. The legislature's view as

to where the appropriate balance between the public's right to know and the right to privacy should be struck in the case of certain types of information relating to employees of institutions is evidenced in the wording of the subsection.

To me it is significant that the words "of an individual" are used in section 14(4)(a). The use of these words clearly reflects the fact that the types of information listed in section 14(4)(a) is information about an identifiable individual. Therefore, in my opinion, section 14(4)(a) includes and applies to the names of individuals who are or were employed by the institution and the disclosure of the names would not constitute an unjustified invasion of personal privacy.

ORDER:

1. I order the institution to disclose to the appellant the names of temporary and part-time employees, including those who have been hired for summer jobs, for the period of 1990 until May 17, 1991.
2. I also order that the institution not make that disclosure until thirty days following the date of the issuance of this order. This time delay is necessary to give any party to the appeal sufficient opportunity to apply for judicial review of my decision before the names are finally disclosed. Provided that notice of an application for judicial review has not been served on the Information and Privacy Commissioner/Ontario and/or the institution within this thirty day period, I order that the names referred to in Provision 1 of this order be disclosed within thirty-five days of the date of this order. The institution is further ordered to advise me in writing within five days of the date on which disclosure was made.
3. Any notice should be forwarded to my attention c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.
4. In order to verify compliance with the provisions of this order, I order the head to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1, only upon request.

Original signed by: _____
Tom Wright
Commissioner

August 12, 1992