



Information and Privacy  
Commissioner/Ontario  
Commissaire à l'information  
et à la protection de la vie privée/Ontario

# **ORDER PO-2813**

**Appeal PA08-291**

**Office of the Public Guardian and Trustee**



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## **NATURE OF THE APPEAL:**

The Office of the Public Guardian and Trustee (PGT), which is part of the Ministry of the Attorney General (the Ministry), received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*). In the request, the requester indicated that he is the legal guardian for his brother and that he is seeking access to all documents (i.e. financial, medical and legal documents) concerning his brother, while his brother was under the care of the Public Guardian. The requester indicated that he believed the Public Guardian assumed care for his brother in 1963. In his request, the requester referred to a court settlement awarded to his brother in 1963 and that his brother would like to know what has happened to his settlement from the death of his mother.

The requester provided his guardianship order to the PGT and a signed consent from his brother, authorizing the release of his brother's personal information to him.

The PGT located the responsive records and issued an access decision granting partial access. It released some records in full and some records in part and withheld other records in their entirety, citing sections 13(1) (advice to government) and 21(1) (personal privacy) of the *Act*.

The requester, now the appellant, appealed the PGT's decision.

During the course of mediation, the PGT issued a revised decision with respect to pages 57, 59, 65, 67, 68, 69 and 74 and released parts of these records to the appellant, pursuant to the exception in section 13(3) (record more than 20 years old) of the *Act*. The PGT noted that it was claiming section 21(1) of the *Act*, with respect to those portions of pages 57, 59, 65, 67, 68, 69 and 74 it was continuing to withhold. During mediation, the mediator also raised the possible application of section 49 to the records, as the records may contain the information of the requester and/or a person for whom the requester is a guardian under section 66(b) of the *Act*.

As the appellant wished to pursue access to the records remaining at issue, the appeal proceeded to adjudication. I sent a Notice of Inquiry setting out the facts and issues in this appeal, to the PGT, seeking its representations. I received representations from the PGT, a complete copy of which was sent to the appellant along with a Notice of Inquiry, seeking his representations. I received representations from the appellant.

## **RECORDS:**

The PGT denied access in full to pages 1 to 7, 58, 70 and 81 to 82 and provided partial access to the remaining records, more particularly described in the following Index of Records:

### **Index of Records**

| <b>Record #</b> | <b>Page(s) #</b> | <b>Description of Record</b> |
|-----------------|------------------|------------------------------|
| 1               | 1                | Incoming telephone call      |
| 2               | 2                | Incoming telephone call      |

|    |                      |  |
|----|----------------------|--|
| 3  | 3                    | Outgoing telephone call  |
| 4  | 4                    | Incoming email   |
| 5  | 5 to 7               | Email chain  |
| 6  | 17                   | Correspondence - removed name/address of parent/legal guardian   |
| 7  | 19                   | Administration note - removed name/address of parent/legal guardian  |
| 8  | 27 to 29             | Financial Account - removed name of parent/legal guardian  |
| 9  | 37                   | Notice of Discharge - removed name/address of parent/legal guardian  |
| 10 | 40                   | Notice of Transfer - removed name/address of parent/legal guardian   |
| 11 | 42, 49, 51 to 54, 56 | Correspondence - removed name/address/identity of parent/legal guardian                                    |
| 12 | 50                   | Application for Allowance  |
| 13 | 57, 59, 65 to 69     | Memorandums of Public Trustee staff - removed name/address/identity of parent/legal guardian               |
| 14 | 58                   | Correspondence from parent/legal guardian  |
| 15 | 70                   | Letter to parent/legal guardian  |
| 16 | 71                   | Questionnaire - removed name/address of parent/legal guardian  |
| 17 | 74                   | Memorandum of Public Trustee staff   |
| 18 | 73, 75, 76           | Letters, Notes - removed name of individual  |
| 19 | 77                   | Membership form - removed name and insurance number of parent/legal guardian                               |
| 20 | 79 to 80             | Department of Health Form - removed name/address of parent/legal guardian, income and number of dependents |
| 21 | 81 to 82             | Department of Health Form completed by parent/legal guardian   |

The exemptions at issue are section 49(a) in conjunction with section 13(1) for Records 1 to 5 and section 49(b) for the remaining records.

## **DISCUSSION:**

### **POWER OF ATTORNEY**

I will first determine whether the appellant can exercise a right of access on behalf of his brother on the basis of a power of attorney, or on the basis that the appellant is the individual's guardian.

Section 66(b) states:

Any right or power conferred on an individual by this Act may be exercised,

by the individual's attorney under a continuing power of attorney, the individual's attorney under a power of attorney for personal care, the individual's guardian of the person, or the individual's guardian of property;

If the requester meets the requirements of this section, then he is entitled to have the same access to the personal information of the individual as the individual would have. The request for access to the personal information of the individual will be treated as though the request came from the individual him or herself [Orders P-1093, M-927 and MO-1315].

Section 66(b) can apply only if the individual in question is alive [Order MO-1424].

The PGT submits that:

... the appellant is not acting under a power of attorney for property nor is he acting under a power of attorney for personal care...

...the appellant has been appointed guardian of the person by the Alberta Court of Queen's Bench. The appellant has not been appointed committee or guardian of the property of [his brother] in Alberta or Ontario.

When the appellant first made his request for access to his brother's file, he provided the Institution with an Order [that] appointed the brother as guardian of [his brother] with the power and authority relating to personal care matters. It did not provide the [appellant] with sufficient authority to request financial records as it specifically excluded matters relating to his "estate".

Therefore, while the appellant may have been appointed by the courts as committee/guardian of the person for his brother, his powers to access personal information of [his brother] were limited to information relating to [his brother's] personal care.

The appellant subsequently provided the Institution with a consent signed by [his brother] to release personal information to the appellant. The Institution then responded to [his] request, on the basis of [this] consent. As a result, access and disclosure were not affected by [the appellant's] lack of authority over [his brother's] financial affairs. The Public Guardian and Trustee granted liberal access to [the brother's] financial records.

The Institution has provided the appellant with all information relating to [his brother] that is in the file except for information that relating, to a third party. Neither [the appellant nor his brother] has authority to access third party information without the consent of that third party.

The appellant does not directly address this issue in his representations.

## **Analysis/Findings**

I have reviewed the Court of Queen's Bench of Alberta order appointing the appellant as the guardian of his brother. Both the appellant and his brother live in Alberta. The Alberta court order is a valid order appointing guardianship. I find that section 66(b) applies in the circumstances of this appeal as the appellant is his brother's guardian of the person. Therefore, the appellant can exercise a right of access on behalf of his brother under section 66(b) of the *Act*.

## **PERSONAL INFORMATION**

I will now determine whether the records contain "personal information" as defined in section 2(1) and, if so, to whom it relates. That term is defined in section 2(1) as follows:

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

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except if they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where 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 list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information [Order 11].

To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be “about” the individual [Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225].

Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual [Orders P-1409, R-980015 and PO-2225].

Section 2(3) modifies the definition of the term “personal information” by excluding an individual’s name, title, contact information or designation which identifies that individual in a “business, professional or official capacity”. Section 2(4) further clarifies that contact information about an individual who carries out business, professional or official responsibilities from their dwelling does not qualify as “personal information” for the purposes of the definition in section 2(1).

To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed [Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.)].

The PGT submits that:

The information contained in the records at issue is personal information as it relates to an identifiable individual, i.e.: a relative of [the appellant]. The information which the Institution considers confidential is the person's address, health card information and financial status.

The appellant does not address this issue directly in his representations.

### **Analysis/Findings**

Based on my review of the records, I find that they contain the personal information of the appellant, his brother and the relative of the appellant and his brother (the affected person) in accordance with the definition of that term set out above. The personal information that has not been disclosed includes the affected person’s name which appears with other personal information relating to this individual, as well as the affected person’s address, home telephone number, marital status, financial information and identifying numbers.

However, I find that the severed information from the three pages that comprise Record 18 does not contain personal information of an identifiable individual. The severed information consists of a name. Disclosure of this name would not reveal other personal information about the individual nor does this name appear with other personal information relating to the individual. As the information at issue in Record 18 does not contain personal information, section 49(b) cannot apply. No other exemptions have been claimed for this record, therefore, I will order it disclosed.

## **PERSONAL PRIVACY**

I will now determine whether the discretionary exemption at section 49(b) applies to the personal information at issue in Records 6 to 17 and 19 to 21.

Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exemptions from this right.

Under section 49(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would constitute an “unjustified invasion” of the other individual’s personal privacy, the institution may refuse to disclose that information to the requester.

If the information falls within the scope of section 49(b), that does not end the matter. Despite this finding, the institution may exercise its discretion to disclose the information to the requester. This involves a weighing of the requester’s right of access to his or her own personal information against the other individual’s right to protection of their privacy. Sections 21(1) to (4) provide guidance in determining whether the unjustified invasion of personal privacy threshold under section 49(b) is met.

If the information fits within any of paragraphs (a) to (e) of section 21(1), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 49(b).

If any of paragraphs (a) to (d) of section 21(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 49(b). None of the exceptions in paragraphs (a) to (e) of section 21(1) apply nor do paragraphs (a) to (d) of section 21(4) apply.

If any of paragraphs (a) to (h) of section 21(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 49(b).

The PGT submits that:

Section 49 is a discretionary exemption. Some of the information that is not being released contains information of both [the appellant’s brother] and another individual. The disclosure of the information of the other party would be an unjustified invasion of his privacy and the Head of the Institution has applied her discretion not to release the information.

The PGT relies on the presumption in section 21(3)(f). This section reads:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness

The PGT submits that:

[The] information contained in the documents deal in a large part with the relative's financial information [section 21(3)(f)] as well as other descriptive information. The release of this information would therefore be an unjustified invasion of the relative's personal privacy.

The appellant did not provide representations on the presumptions set out in section 21(3) of the *Act*.

#### ***Analysis/Findings re: section 21(3)(f)***

Based upon my review of the information at issue in the records, I find that part of the information severed from Records 12, 17, 20 and 21 contains information concerning the affected person's finances, income and bank balances. This information is subject to section 49(b) in conjunction with the presumption set out in section 21(3)(f).

Once established, a presumed unjustified invasion of personal privacy under section 21(3) can only be overcome if section 21(4) or the "public interest override" at section 23 applies [*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767]. As stated above, section 21(4) does not apply and section 23 has not been raised.

Once a presumed unjustified invasion of personal privacy is established under section 21(3), it cannot be rebutted by one or more factors or circumstances under section 21(2) [*John Doe*, cited above]. If no section 21(3) presumption applies, section 21(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy under section 49(b) [Order P-239].

#### **Section 21(2)**

I will now consider whether section 49(b) in conjunction with the factors in section 21(2) apply to the information that I have not found subject to section 49(b) the presumption in section 21(3)(f). This information comprises the information in Records 6 to 17 and 19 to 21 except for the information that I have found subject to the presumption in section 21(3)(f) in Records 12, 17, 20 and 21.



The PGT submits that it has considered the factors in section 21(2) in making the access and disclosure decision. This section reads:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

The list of factors under section 21(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 21(2) [Order P-99].

The appellant appears to be raising the application of the factor in section 21(2)(a), which weighs in favour of disclosure of the information at issue. He submits that:

... [his brother] has had Down's Syndrome since birth. There have been previous claims of power of attorney over [his brother] which are illegal. [His brother] has had a great deal of money stolen from him throughout his life from a general lack of protection and the denial of access to him and his affairs by his legal guardian since 1982. Under Ontario law, legal guardianship by default goes to [his

brother's] next blood relative, which is [the appellant]. His father, [name] legally abandoned [the appellant's brother] in 1962. At that time, PGT became [the appellant's brother's] legal guardian. PGT abandoned [the appellant's brother] in 1982 and [the appellant] then became by default [his brother's] legal guardian. Since [the appellant's brother] has Down's Syndrome he is not capable of handling his financial affairs and never was. He cannot sign for himself. PGT made incorrect representations and [the appellant's brother] was in a very vulnerable situation since his next blood relative, [the appellant] was not notified of court procedures in 1982 and [his brother] has suffered a great deal as a result. He has ended up completely traumatized and nearly died by the time [the appellant] was informed of his rights and could finally get to him and care for him a little over a year ago.

He has received no compensation for his mother being killed in 1961, including settlements of her life insurance, her estate and her wishes for her son. [The appellant's brother] has every right to have access to information regarding his financial affairs, who his legal guardian was at the time, settlements of his mother's estate, including life insurance payouts to his father, and reasons for his legal guardian, or whoever claimed to be legal guardian at the time, took money that should have gone to him.

The records regarding [the appellant's brother] legal guardianship at the time must be released to him. If this person is not [the appellant's brother's] legal guardian, which may well be the case, [the appellant's brother] must be informed of it...

[The appellant's brother] has every right to know his deceased mother's wishes for him... PGT put [the appellant's brother] in an institution where he was psychologically, physically and sexually abused for decades. To cover up any details of what happened including the part PGT had to play in it is not only immoral, it's illegal.

The Attorney General has a mandate to uphold the law and do what it can to protect those who cannot protect themselves. In this case they failed -- for whatever reason. ...

### **Analysis/Findings**

The records for which the PGT has claimed section 49(b) are dated between January 1963 and May 1984. The appellant alleges that the PGT was the guardian of both his brother personally and his brother's financial affairs during this time period. According to the PGT, the Public Trustee (now the PGT) was the guardian of only the appellant's brother's financial affairs during this time period. It has described its role in this case as follows:

The Public Trustee was responsible for managing [the appellant's brother's] finances. This management included writing to various third parties, gathering

information relating to the assets and liabilities of [the appellant's brother] and dealing with any legal issues that arose for [the appellant's brother].

During the period in time that the Public Trustee administered his finances, the individuals responsible for managing his finances corresponded with [the appellant's brother's] relative [the affected person] who was involved in assisting [the appellant's brother]. The Public Trustee therefore obtained information from the relative as well as obtained information about the relative...

I found above that the appellant can exercise a right of access on behalf of his brother under section 66(b) of the *Act*. The appellant has made serious allegations against the PGT concerning the management of his brother's care and his brother's assets. Based upon my review of the records and the parties' representations, I agree with the PGT that it was only responsible for the appellant's brother's finances from 1963 to 1984. I also find that section 21(2)(a) applies. Disclosure of the information at issue concerning the management of the appellant's brother's finances by the PGT will subject the expenditures of the PGT, and the Ministry of the Attorney General of which the PGT is part of, to public scrutiny [Orders P-256 and PO-2536].

Section 21(2)(a) contemplates disclosure in order to subject the activities of the government (as opposed to the views or actions of private individuals) to public scrutiny [Order P-1134]. The public has a right to expect that expenditures of employees of government institutions during the course of performing their employment-related responsibilities are made in accordance with established policies and procedures, carefully developed in accordance with sound and responsible administrative principles [Orders P-256 and PO-2536].

The factor in section 21(2)(a) weighs in favour of disclosure of the personal information in the records (except for the information to which I have found section 21(3)(f) applies) concerning the management by the PGT of the appellant's brother's financial affairs.

In the circumstances of this appeal and taking into account the affected person's circumstances, I find that the factor in section 21(2)(a) applies. No factors that weigh in favour of privacy protection have been raised by the parties. Nor can I find, based on the circumstances of this appeal, that these factors in sections 21(2)(e) to (i) outweigh the factor in section 21(2)(a) in favour of disclosure. Therefore, I will order disclosed this personal information in the records concerning the management of the appellant's brother's finances. This disclosure does not include the information that I have found subject to section 49(b) in conjunction with section 21(3)(f).

The personal information that the factor in section 21(2)(a) applies to also does not include information not relevant to the financial management of the appellant's brother's affairs, such as the affected person's address, home phone number, marital status, occupation, employment and identifying numbers. I will consider below whether the PGT exercised its discretion in a proper manner under section 49(b) to withhold this and the information that I have found subject to the presumption in section 21(3)(f). However, first I will determine whether the discretionary exemption at section 49(a) in conjunction with section 13(1) applies to Records 1 to 5.

## **RIGHT OF ACCESS TO ONE'S OWN PERSONAL INFORMATION/ ADVICE TO GOVERNMENT**

Section 47(1) gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exemptions from this right.

Under section 49(a), an institution has the discretion to deny an individual access to their own personal information where the exemptions in sections 12, **13**, 14, 14.1, 14.2, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that information.

In this case, the institution relies on section 49(a) in conjunction with section 13(1).

Section 13(1) states:

A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

The purpose of section 13 is to ensure that persons employed in the public service are able to freely and frankly advise and make recommendations within the deliberative process of government decision-making and policy-making. The exemption also seeks to preserve the decision maker or policy maker's ability to take actions and make decisions without unfair pressure [Orders 24, P-1398, upheld on judicial review in *Ontario (Minister of Finance) v. Ontario (Information and Privacy Commissioner)* (1999), 118 O.A.C. 108 (C.A.)].

“Advice” and “recommendations” have a similar meaning. In order to qualify as “advice or recommendations”, the information in the record must suggest a course of action that will ultimately be accepted or rejected by the person being advised [Orders PO-2028, PO-2084, upheld on judicial review in *Ontario (Ministry of Northern Development and Mines) v. Ontario (Assistant Information and Privacy Commissioner)*, [2004] O.J. No. 163 (Div. Ct.), aff'd [2005] O.J. No. 4048 (C.A.), leave to appeal refused [2005] S.C.C.A. No. 564; see also PO-1993, upheld on judicial review in *Ontario (Ministry of Transportation) v. Ontario (Information and Privacy Commissioner)*, [2005] O.J. No. 4047 (C.A.), leave to appeal refused [2005] S.C.C.A. No. 563].

Advice or recommendations may be revealed in two ways:

- the information itself consists of advice or recommendations
- the information, if disclosed, would permit one to accurately infer the advice or recommendations given

[Orders PO-2028, PO-2084 and PO-1993]

Examples of the types of information that have been found *not* to qualify as advice or recommendations include

- factual or background information
- analytical information
- evaluative information
- notifications or cautions
- views
- draft documents
- a supervisor's direction to staff on how to conduct an investigation

[Order P-434; Order PO-1993; Order PO-2115; Order P-363, upheld on judicial review in *Ontario (Human Rights Commission) v. Ontario (Information and Privacy Commissioner)* (March 25, 1994), Toronto Doc. 721/92 (Ont. Div. Ct.); Order PO-2028]

The PGT submits that Records 1 to 5 contain information that relates to the circumstances in which a capacity assessment is being requested to determine an individual's capacity to manage their finances and the applicable criteria for the PGT or the Capacity Assessment Office to fund these assessments. The advice relates to whether a capacity assessment is necessary and whether either the PGT or the Capacity Assessment Office will fund this assessment. It states that:

There is an exchange of emails between individuals working in both offices and information is being provided in an effort to determine how to proceed. Funding policies change from time to time, depending on available budget funding and each case is specific. The records at issue do not fall within the exception of section 13(3) as the records are less than 20 years old.

If these documents were released, it would inhibit the free flow of advice or recommendations within the office. It is often the case that emails or memos are exchanged among various departments of the Public Guardian and Trustee and the Capacity Assessment Office in order to gather information about the different departments and how they operate. The free flow of recommendations and advice are necessary to the efficient operation of the Public Guardian and Trustee and the Capacity Assessment Office to effectively respond to inquiries such as those of [the appellant]...

The Institution has severed the documents where appropriate and has also provided an explanation to the appellant relating to the funds which the appellant questioned.

The appellant does not respond directly to these representations of the PGT.

### **Analysis/Findings**

The PGT did not direct me to any specific information in the records at issue that contain advice or recommendations. Based upon my review of the information in Records 1 to 5, I find that they do not contain the advice or recommendations of a public servant, or of any other person employed in the service of an institution or a consultant retained by an institution. I further find that disclosure of these records could not reveal advice or recommendations. Therefore, I find

that sections 38(a) in conjunction with 13(1) do not apply to Records 1 to 5. As no other exemptions have been claimed for these records I will order these records disclosed.

### **EXERCISE OF DISCRETION**

I will now determine whether the PGT exercised its discretion under section 49(b) concerning the personal information that I have not found subject to the factor in section 21(2)(a).

The section 49(b) exemption is discretionary, and permits an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose
- it takes into account irrelevant considerations
- it fails to take into account relevant considerations

In either case this office may send the matter back to the institution for an exercise of discretion based on proper considerations [Order MO-1573]. This office may not, however, substitute its own discretion for that of the institution [section 54(2)].

Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant [Orders P-344, MO-1573]:

- the purposes of the *Act*, including the principles that
  - information should be available to the public
  - individuals should have a right of access to their own personal information
  - exemptions from the right of access should be limited and specific
  - the privacy of individuals should be protected
- the wording of the exemption and the interests it seeks to protect
- whether the requester is seeking his or her own personal information
- whether the requester has a sympathetic or compelling need to receive the information
- whether the requester is an individual or an organization

- the relationship between the requester and any affected persons
- whether disclosure will increase public confidence in the operation of the institution
- the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person
- the age of the information
- the historic practice of the institution with respect to similar information

The PGT submits that:

[It] released as much information as was possible without infringing the privacy rights of another individual.

The Institution considered the privacy interests of [the appellant's brother] and the relative and decided that it would be an unjustified invasion of the relative's privacy if the information relating to that relative were disclosed.

In the course of doing business, the Institution receives information about third parties on a daily basis. The Institution has operated with the view that third party information is confidential and should not be released without the consent of that individual as it would be impossible to manage the finances of the incapable people without having some information about third parties.

The appellant did not provide representations on this issue.

### **Analysis/Findings**

I find that the PGT exercised its discretion in a proper manner, taking into account relevant considerations and not taking into account irrelevant considerations. In these circumstances, disclosure of the information that I have not found subject to the factor in section 21(2)(a) would constitute an unjustified invasion of the affected person's privacy. The privacy rights of the affected person in the circumstances of this appeal outweigh the appellant's right to access this information under section 49(b).

### **ORDER:**

1. I order the PGT to disclose to the appellant **September 11, 2009** all of the information in the records except for the information that I have found exempt by reason of section 49(b). For ease of reference I have highlighted the information that should *not* be disclosed to the appellant on the copy of the records that accompany this order to the PGT.

2. In order to verify compliance with this order I reserve the right to require the PGT to provide me with a copy of the records disclosed to the appellant pursuant to provision 1, upon my request.

Original signed by: \_\_\_\_\_

\_\_\_\_\_ August 12, 2009 \_\_\_\_\_

Diane Smith

Adjudicator