

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER PO-3482

Appeal PA13-512

Ministry of Training, Colleges and Universities

April 24, 2015

**Summary:** The appellant made a request to the ministry for information relating to the number of hours worked by a store's employees for whom the store received financial incentives from the ministry. The ministry denied access to the record, relying on the mandatory personal privacy exemption at section 21(1) of the *Act*. The adjudicator finds that the record contains the personal information of the appellant and other employees and that disclosure of the record would be an unjustified invasion of the other employees' personal privacy under section 49(b). She upholds the ministry's decision, in part, and orders the ministry to disclose to the appellant a copy of the record with the personal information of the other employees severed.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 2(1), 49(b).

**Orders and Investigation Reports Considered:** Orders MO-1415, P-312.

### OVERVIEW

[1] The Ministry of Training, Colleges and Universities (the ministry) offers financial incentives to employers who hire individuals who may have gaps in their skills or experience. The appellant was employed at a store for several months under this ministry program. He continued to work at the store as a regular employee after the

ministry stopped paying the store a financial incentive for him. His employment ceased some time later.

[2] The appellant submitted a request to the ministry under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to the following information:

Ministerial involvement in subsidized wage or training contracts with [the store where the appellant was employed]. Specifics:

- 1) Total number of training/wage subsidy contracts for youth, students and adults.
- 2) For each individual contract - a monthly total of the number of hours worked reported for the ministry.

[3] The appellant asked for records from January 1 to October 31, 2013.

[4] The ministry identified one responsive record, a table outlining the monthly and total number of hours worked by each of the store's employees for whom the store received financial incentives from the ministry for the period of January to October 2013. It issued a decision denying access to the record, relying on the mandatory personal privacy exemption at section 21(1) of the *Act*. The appellant appealed the ministry's decision to this office.

[5] As no resolution was reached during the mediation stage of the appeal, the file was referred to the adjudication stage, where an adjudicator conducts an inquiry. During the course of adjudication, the ministry advised that it had inadvertently supplied this office with an incorrect record, and provided the correct record at issue. It also confirmed its decision to deny access to the record under section 21(1).

[6] The ministry further advised that the appellant is one of the employees listed in the record (which does not set out the employees' names). Therefore, I added as an issue in the appeal the possible application of the discretionary personal privacy exemption at section 49(b) of the *Act*, which applies where a record contains the requester's own personal information. I sought and received representations from the ministry and the appellant. The parties' representations were shared, with confidential portions severed in accordance with *Practice Direction 7* and section 7 of the Information and Privacy Commissioner's *Code of Procedure*.

[7] In this order, I find that the record contains the personal information of the appellant and the other employees whose hours are listed in the record. I find that the disclosure of the other employees' personal information would result in an unjustified invasion of their personal privacy and that this information is, therefore, exempt from

disclosure under section 49(b). I order the ministry to disclose to the appellant as much of the record as can be reasonably disclosed without revealing the personal information of the other employees.

## **RECORD**

[8] The record at issue is a one-page table that outlines, for the period of January to October 2013, the monthly and total number of hours worked by each of the retail store's employees for whom the store received a financial incentive from the ministry.

## **ISSUES**

- A. Does the record contain "personal information" as defined in section 2(1) of the *Act* and, if so, to whom does it relate?
- B. Does the discretionary personal privacy exemption at section 49(b) of the *Act* apply to the information at issue?
- C. Did the institution exercise its discretion under section 49(b)? If so, should this office uphold the exercise of discretion?

## **DISCUSSION**

### **Background**

[9] To place the issues in context, I set out here some brief background taken from the representations of the ministry and the appellant.

[10] The ministry offers financial incentives to employers who employ individuals who may have gaps in their skills or experience. The ministry states:

One of the suite of assisted services provide under Employment Ontario is financial incentives to employers of up to \$6,000 for each individual who is not an apprentice to:

- Encourage employers to provide on-the job training placements, work experience opportunities and/or skill level assessments to support an individual's employment/labour market goals consistent with the needs of the labour market;

- Encourage employers to support participants in addressing gaps in their credibility, skills and experience; and
- Offset some of employers' costs, such as temporary reductions in productivity, increased supervision requirements and out of pocket training expenses.

[11] The ministry goes on to describe some specific employment and training programs which target particular groups, based on age and other personal characteristics. For example, the Summer Jobs Service is available to students between 15 and 30 years of age who are planning to return to school in the fall. The Targeted Initiative for Older Workers is available to those between the ages of 55 and 64 who are unemployed, live in a vulnerable community and lack skills needed for successful re-integration into employment. The Youth Employment Fund is available to Ontario residents between 15 and 29 years of age who are unemployed and not attending school full-time, and is targeted to youth facing barriers to work, including youth on social assistance, aboriginal youth, youth with a disability, youth with a poor history of educational attainment or employability and youth in communities with high youth unemployment.

[12] The appellant was employed at the store under this ministry program from January to the end of April 2013, when the ministry's incentive for the appellant's employment ended. The appellant continued to work at the store until December 2013. According to his representations, he either has brought or will bring an application against the store to the Human Rights Tribunal of Ontario.

**A. Does the record contain "personal information" as defined in section 2(1) of the *Act* and, if so, to whom does it relate?**

[13] In order to determine which exemptions under the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. That term is defined in section 2(1), which provides in part as follows:

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

- (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,

[14] The list of examples of personal information under section 2(1) is not exhaustive. Information that does not fall under paragraphs (a) to (h) of the definition may still qualify as personal information.<sup>1</sup>

[15] Sections 2(3) and (4) also relate to the definition of personal information. These sections state:

(3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

(4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[16] 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.<sup>2</sup> However, 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.<sup>3</sup>

[17] In addition, to qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.<sup>4</sup>

### ***Representations***

[18] The ministry submits that the record contains personal information which consists of recorded information about identifiable individuals relating to their employment history and to financial transactions in which they have been involved. It notes that the record sets out the hours each individual worked per month at the store during the period of the request, and submits that this information is about individuals in their personal capacity, not their professional, official or business capacity. The ministry submits that the appellant would be able to calculate the monthly income for each employee as a result of applying the known hourly rate (all employees were paid the same hourly wage) to their total monthly hours.

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<sup>1</sup> Order 11.

<sup>2</sup> Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

<sup>3</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

<sup>4</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

[19] In addition, the ministry submits that the record identifies, for each employee, the employment and training programs or services under which the store received financial incentives. The ministry submits that this could reveal additional personal information: for example, the notation "YEF" may include youth on social assistance, aboriginal youth, youth with a disability, youth with a poor history of educational attainment or employability; and youth in communities with high youth unemployment.

[20] The record does not contain the names of the employees. The ministry submits, however, that the employees are nonetheless identifiable. It points out that the appellant is one of the employees in respect of whom the ministry paid a financial incentive to the store, and that the appellant would reasonably be expected to be able to identify the other individuals listed on the record due to the small number of total staff employed by the store, the small number of individuals for whom the store received the financial incentives, and the identification of the employment and training program or service under which the store received the financial incentive.

[21] The ministry submits that the store has a regular workforce of ten or fewer employees and has received financial incentives from the ministry for fewer than five employees, one of whom is the appellant. In the confidential portion of its representations, the ministry provides the precise number of store employees in respect of whom the ministry provided a financial incentive. The ministry submits that, if the record is disclosed, it is reasonable to expect that the appellant could make accurate inferences as to who among the store's employees was the subject of the store's financial incentives, and that he would also be able to correlate the number of hours worked to specific individuals. In support of its submission, the ministry relies on Orders MO-1254, MO-1255, MO-1415 and MO-1572. For example, in Order MO-1415, the adjudicator found that, in small organization employing few staff, disclosure of the number of Ontario Works program participants could reasonably be expected to give rise to the drawing of accurate inferences as to who among their small number of employees are, in fact, particular types of employees.

[22] The appellant submits that he deliberately sought to avoid receiving any personal information about other store employees. He submits that he wants only the pattern of contract hours for his human rights complaint against the store, and does not need the information to be broken down in such a way that might identify any employee as a member of a particular community, for example, youth, students or adults. He wishes only to show a pattern in which subsidized hours of work were assigned to others while denied to him.

[23] The appellant further submits that he worked infrequently and he was generally not at the store at the same time as the other employees for whom the store might have received a financial incentive, and as such he would have no way of knowing what hours belong to which person.

[24] In reply, the ministry submits that, during the time that the appellant was working as part of the ministry program (until the end of April), he worked between about 35 and 52 hours biweekly, and that these hours would reasonably result in familiarity with his co-workers.<sup>5</sup> There were a small number of individuals for whom the store received the incentive during the period of the request, and since the appellant was one of these individuals, he would reasonably be expected to be able to identify the others.

### ***Analysis and findings***

[25] As noted above, in order for information to qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.<sup>6</sup> The record lists a small number of individuals, including the appellant, for whom the store received financial incentives. Although I am unable, for confidentiality reasons, to mention the exact number of such employees here, the ministry's non-confidential representations confirm that it received a financial incentive for fewer than five employees, including the appellant. In other words, at most three employees other than the appellant are listed in the record. For the following reasons, I find that, even if the nature of the particular program applying to each employee (for example, "YEF") were to be severed from the record (as the appellant has suggested), it is reasonable to expect that the appellant would be able to identify the employees.

[26] From the ministry's description of its financial incentive program, it is evident that the employees in respect of whom the ministry pays such an incentive tend to have particular characteristics, such as coming from a vulnerable community. The ministry also mentions that these employees may require more supervision and training. I find that in a small store, co-workers may be more aware of these factors. Further, the record sets out some distinctive work patterns of the very small number of clients listed therein. These factors in combination lead me to conclude that it is reasonable to expect that the appellant would be able to identify each of the other employees listed in the record. This is so notwithstanding the fact that, from May onward, the appellant may have worked fewer hours and, as such, had less interaction with his coworkers. I find that, in a small store employing few staff, employees would still be aware in a general sense of the comings and goings of other staff and would likely recognize the distinct pattern disclosed in the record.

[27] Having found that the other employees listed in the record are identifiable, I now turn to whether the information about them falls within the definition of personal information under section 2(1) of the *Act*. I find that it does. First, I find that the fact that these employees are employed under the ministry program constitutes information

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<sup>5</sup> While the appellant continued to be employed by the store beyond April 30, his hours were no longer reported to the ministry and so the ministry has no knowledge of his hours after that time.

<sup>6</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

personal to them under the introductory wording of the definition. Also, the information includes the number of hours worked by various employees, and therefore constitutes their employment history, which is their personal information under paragraph (b) of the definition. Finally, since the employees were all paid the same rate, which would be known to the appellant, he can easily determine the wages earned by the other employees. This financial information is their personal information under paragraph (b) of the definition.

[28] I conclude, therefore, that the record discloses the personal information of the appellant and the other employees listed in the record.

**B. Does the discretionary exemption at section 49(b) apply to the information at issue?**

[29] 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.

[30] Under section 49(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an “unjustified invasion” of the other individual’s personal privacy, the institution may refuse to disclose that information to the requester. Since the section 49(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.<sup>7</sup>

[31] For records claimed to be exempt under section 49(b) (ie., records that contain the requester’s personal information), this office will consider, and weigh, the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties in determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy.<sup>8</sup>

***Representations***

[32] The ministry argues that the presumptions at sections 21(3)(d) and (f) apply. Those paragraphs state as follows:

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

(d) relates to employment or educational history;

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<sup>7</sup> See below in the “Exercise of Discretion” section for a more detailed discussion of the institution’s discretion under section 49(b).

<sup>8</sup> Order MO-2954.



- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

[33] The ministry submits that the record contains employment or educational history in that it confirms the monthly and total monthly hours that the individuals worked in this particular workplace; and that the record also describes an individual's finances, income, financial history or activities because the requester would be able to extrapolate hours worked to determine total monthly income, given that all employees from whom the store receives financial incentives from the ministry are paid the same hourly rate.

[34] The appellant, on the other hand, submits that the factors at sections 21(2)(a) and (d) apply. These paragraphs state:

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;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;

[35] With respect to the factor at section 21(2)(d) (fair determination of rights), the appellant submits that he needs the pattern of hours for his human rights complaint against the store and its manager. He intends to show a pattern in which subsidized hours of work were assigned to others while denied to him, in violation of his human rights because of his disability. He submits that the Human Rights Tribunal (HRT) must have access to this information to decide his complaint before it – a complaint which, as of the time the appellant wrote his representations, he had not yet brought.

[36] With respect to the factor at section 21(2)(a) (public scrutiny), the appellant submits:

The public has a right to expect that expenditures are made in accordance with established policies and procedures...

The public does have a right to know. For the proper functioning of democracy, disclosure is desirable for the purpose of subjecting the

activities of the MTCU to public scrutiny (by HRTO). (specifically MTCU's failure to monitor this employer's... use of contracts.)

### ***Analysis and findings***

[37] I find that disclosure of the record at issue would result in an unjustified invasion of the personal privacy of the individuals, other than the appellant, who are identified in the record (the "other employees"). In coming to this conclusion, I have considered, and weighed, both the presumptions in favour of non-disclosure raised by the ministry and the factors in favour of disclosure raised by the appellant.

[38] I agree with the ministry that the presumptions at sections 21(3)(d) and 21(3)(f) apply. As I found above, the record contains information about the other employees' employment history, as well as their finances or financial history.

[39] For records that contain only the personal information of individuals other than the requester, a presumption under section 21(3), once established, cannot be overcome by the factors set out in section 21(2). However, where a record also contains the personal information of the requester, as does the record in the present appeal, the adjudicator weighs the factors and presumptions in sections 21(2) and (3) and balances the interests of the parties in determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy.<sup>910</sup>

[40] I have considered the appellant's submission that the factor in favour of disclosure at section 21(2)(d) applies because the information at issue is relevant to a fair determination of his rights before the Human Rights Tribunal. In Order P-312,<sup>11</sup> the former Assistant Commissioner held that, in order for section 21(2)(d) to be a relevant consideration, it must be established that:

- The right in question is a legal right based on the concepts of common law or statute and not a non-legal right based on morality or ethics;
- The right relates to an existing or contemplated proceeding, not one that has been completed;

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<sup>9</sup> Order MO-2954.

<sup>10</sup> The ministry cited Order P-1093 and urged me to apply the mandatory personal privacy exemption at section 21(1) to the portions of the record that do not contain the appellant's personal information. Section 21(1) is the appropriate personal privacy exemption to consider where a record does not contain any personal information of the requester. However, recent orders of this office have confirmed that if the record as a whole contains the requester's personal information, the appropriate personal privacy exemption to consider is that under section 49(b) and not section 21(1): see Orders PO-3390 and PO-3409.

<sup>11</sup> Upheld on judicial review in *Ontario (Minister of Government Services) v. Mitchinson*, [1994] O.J. No. 4280 (Ont. Div. Ct.).

- The personal information being sought has some significance to the determination of the right; and
- The personal information is necessary for the individual in question to prepare for the proceeding or to ensure an impartial hearing.

[41] I accept that the appellant's human rights are based on statute, and that the rights in question relate to a proceeding that is either existing or contemplated. I also accept that the information in the record may have some relevance to the issues to be decided by the HRTO, as described by the appellant.

[42] However, I find it doubtful that the information is required to prepare for the proceeding or to ensure an impartial hearing. I interpret the appellant's submissions to mean that he needs the information to prepare for the proceeding in the sense that the information is relevant to the arguments that he intends to make in that proceeding. However, such an interpretation of the fourth requirement would, in my view, make it redundant, since the third requirement already requires that the information being sought have some significance to the determination of the right in question. Previous orders of this office have interpreted the phrase "necessary to prepare for the proceeding" as applying to information that goes beyond merely information that is relevant to the issues to be decided in the proceeding.<sup>12</sup> For example, previous orders have ordered disclosure of an affected party's name to a requester who requires it to commence an action against the affected party.<sup>13</sup> By contrast, the appellant in the present appeal can commence, or perhaps has already commenced, his HRTO application without the record at issue.

[43] Furthermore, I find that the decision-maker at the HRTO will have the benefit of the parties' pleadings and will be better placed than I to determine what evidence is relevant and necessary to decide the issues in that proceeding. That decision-maker can use his or her own powers to obtain information as he or she sees fit.<sup>14</sup> While the availability of alternative means of disclosure does not preclude disclosure under the *Act*, the fact that there is another possible means of disclosure is particularly relevant in a case such as this one, where I have less information about the nature of the issues in the HRTO proceeding than does (or will) the HRTO itself.<sup>15</sup> I find that the information is not required at this juncture for the appellant to prepare for the HRTO proceeding.

[44] I do not need to finally determine whether the fourth condition is satisfied, however, because I find that even if all four conditions are met and the factor at section 21(2)(d) is a relevant consideration, it does not merit significant weight in the

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<sup>12</sup> See Orders P-312 and M-119.

<sup>13</sup> See Orders M-746 and M-1146.

<sup>14</sup> *Human Rights Code*, R.S.O. 1990, c. H.19, section 44.

<sup>15</sup> Orders PO-1715, MO-2677.

circumstances of this appeal. I find this, again, because the information can be obtained, if necessary, in the context of the human rights proceeding, if one is initiated.

[45] I now turn to the factor at section 21(2)(a) (public scrutiny). The appellant argues that disclosure will subject the ministry to the HRTO's scrutiny of how the ministry monitors (or fails to monitor) employers' use of employees for whom the ministry provides a financial incentive. By referring to the HRTO, the appellant is reiterating the argument he has made under section 21(2)(d), and which I have already addressed.

[46] I have also considered, however, whether disclosure is desirable to subject the ministry to public scrutiny, as contemplated by section 21(2)(a). The appellant states that the ministry failed to monitor this employer's use of financial incentive contracts. The appellant appears to argue that the employer is taking advantage of the ministry financial incentive program by employing ministry-subsidized employees instead of regular staff, and by giving more hours to the former.

[47] I have reviewed the record at issue and considered the appellant's arguments. I am not satisfied, from my review of the record, that its disclosure is desirable for subjecting the ministry to public scrutiny. As mentioned above, the appellant's subsidized employment ended on April 30 and he continued as a regular employee thereafter. The ministry's record does not list the hours of all employees, only those of the employees in respect of whom the ministry paid an incentive. As such, the record does not provide a comparison of the hours that the store gave to subsidized employees as opposed to regular employees. I am also not satisfied that the record otherwise contains information the disclosure of which is desirable for subjecting the ministry to public scrutiny, though I am unable to elaborate further about this without referring to the content of the record. I conclude that this is not a relevant factor favouring disclosure.

[48] I find that the presumptions relied on by the ministry weigh strongly in favour of privacy protection. In my view, in listing employment history and financial information as presumptions in section 21(3), the Legislature has recognized the inherent sensitivity of such information. I found above that the factor relied on by the appellant at section 21(d) weighs only slightly, if at all, in favour of disclosure. Weighing the factors and presumptions in sections 21(2) and (3) and balancing the interests of the parties, I conclude that disclosure of the record at issue would result in an unjustified invasion of the other employees' personal privacy. Subject to my findings on the ministry's exercise of discretion, therefore, I find that the record at issue is exempt from disclosure pursuant to section 49(b).

[49] I have also considered, pursuant to section 10(2) of the *Act*, whether it is reasonably possible to sever the record so as to disclose to the appellant information that is not exempt. In its reply representations, the ministry stated that it is willing to

provide the appellant with a redacted copy of the record containing his own personal information, but not that of the other employees.

[50] I agree with the ministry that the appellant's own personal information is reasonably severable from the personal information of the other employees. While the appellant clearly is more interested in the other employees' information, he is entitled to his own personal information, and I will order the ministry to disclose it to him.

**C. Did the institution exercise its discretion under section 49(b)? If so, should this office uphold the exercise of discretion?**

[51] 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.

[52] 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; or
- it fails to take into account relevant considerations.

[53] In either case this office may send the matter back to the institution for an exercise of discretion based on proper considerations.<sup>16</sup> This office may not, however, substitute its own discretion for that of the institution.<sup>17</sup>

[54] Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant:<sup>18</sup>

- 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

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<sup>16</sup> Order MO-1573.

<sup>17</sup> Section 54(2).

<sup>18</sup> Orders P-344, MO-1573.

- 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.

### ***Representations and findings***

[55] The ministry submits that it properly exercised its discretion under section 49(b) not to disclose the personal information of the other employees. It submits that in deciding to withhold this information, it considered the following factors:

- the record contains the personal information of individuals other than the appellant, and its disclosure would provide insight into their employment and financial history;
- the appellant and the other employees were co-workers and it would be reasonably expected that they would be familiar with each other;
- the ministry is not able to provide the record in a form that would not reveal personal information.

[56] The appellant submits that it is immoral, unethical and illegal to use discretion to

frustrate the rights of citizens. He states that the ministry is exercising its discretion in bad faith and for an improper purpose – to frustrate the appellant’s exercise of his human rights.

[57] Based upon the considerations set forth by the ministry in its representations, I find that the ministry has exercised its discretion not to disclose the personal information of the other employees in an appropriate manner, taking into account all of the circumstances surrounding this request and appeal. There is nothing in the material before me to suggest that the ministry took into account irrelevant considerations, failed to take into account relevant ones, or exercised its discretion in bad faith or for an improper purpose. In particular, there is no evidence to support the appellant’s suggestion that the ministry exercised its discretion to frustrate the appellant’s exercise of his human rights. As a result, I uphold the ministry’s exercise of discretion.

## **ORDER**

1. I uphold the ministry’s decision in part, and order it to disclose to the appellant a severed copy of the record at issue that contains as much of the record as can be reasonably disclosed without disclosing the personal information of the other employees. This disclosure is to take place by providing the appellant with a copy of the severed record by no later than **May 25, 2015**.
2. In order to verify compliance with order provision 1, I reserve the right to require the ministry to provide me with a copy of the record that is disclosed to the appellant.

Original Signed By: \_\_\_\_\_  
Gillian Shaw  
Adjudicator

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April 24, 2015