

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-4262

Appeal PA20-00274

The Royal Ottawa Mental Health Centre

May 11, 2022

**Summary:** The appellant sought access to records under the *Freedom of Information and Protection of Privacy Act (FIPPA)* from The Royal Ottawa Mental Health Centre (The Royal) related to the programs, services and conditions for a querulous paranoia assessment about him. The Royal located and disclosed to the appellant responsive records under FIPPA, but refused to issue an access decision under *Personal Health Information Protection Act, 2004 (PHIPA)*, unless the appellant completed its *PHIPA* request form.

After appealing The Royal's decision to the IPC, the appellant claimed that additional responsive records exist. In this order, the adjudicator finds that The Royal had not conducted a reasonable search for records and orders The Royal to conduct another search for records and issue an access decision for responsive records that are governed in whole or in part by *PHIPA*.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990. C. F.31, as amended, sections 2(1) (definition of "institution"), and 24; *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, sections 3(1), 53, and 54.

**Orders Considered:** PHIPA Decision 17.

### OVERVIEW:

[1] This order considers the reasonableness of the searches conducted by The Royal Ottawa Mental Health Centre (The Royal) in response to the appellant's request for records about the programs and services at The Royal to which a querulous paranoia assessments referral about him could be made, including under what conditions.

[2] The appellant had submitted an access request to The Royal, which is a mental health care, teaching and research hospital,<sup>1</sup> for the following records:

Please send me ASAP [as soon as possible] by email any paper or systems or computer or any records or information or data that relates in to the decision that [name of appellant] querulous paranoia assessment referral can never be done under any of the following programs or services [(the programs)] unless there is a court order to support the referral from the Ottawa Hospital and a GP [general practitioner doctor] and the Ottawa Police WHICH INCLUDES any funding agreements other documents that describe program or services listed below or other documentation from the Patient Relations Department or Legal Department or Doctor [name] Department or [name] Department or Dr. [name] Department or [three named] Department or any other Department in The Royal that relate to whether the [name of appellant] querulous paranoia assessment referral can be done without court permission under any of the following programs or services (except there are handwritten notes on a document that originated from me, please do not send any documentation that originated from me):

Regional Forensic Mental Health Programs  
Anger Disorders Clinic  
Royal Community Mental Health Program - Assertive Community Treatment Teams (ACTT)  
Community Treatment Order Coordination  
Impairment, risk assessment  
General Forensics Consultation Clinic  
Violence prevention, risk management

[3] The appellant's request referred to the *Freedom of Information and Protection of Privacy Act (FIPPA or the Act)*. In response, The Royal located some records and issued a decision letter under *FIPPA* dated August 5, 2020 to the appellant that provided him with partial access to these records. This letter stated, in part:

We are pleased to inform you that access has been granted in part to written communications. Some information is exempt under the *Act*. Solicitor-client privilege[d] information is exempt as per section 19...; and personal health information of another patient is excluded under the *Act* and has been removed...

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<sup>1</sup> See <https://www.theroyal.ca/royal>

We note that your request to exclude all information originating from you cannot be granted as doing so would alter the records that we are providing.<sup>2</sup>

Additionally, part of your request includes Referral documentation, which is considered Personal Health Information and is not subject to the Act but would be subject to the Personal Health Information Protection Act (PHIPA). The process to request this information is to complete the included Request to Access Personal Health Information form, and return to Clinical Records at the Royal...

[4] In response, the appellant appealed The Royal's access decision to the Information and Privacy Commissioner of Ontario (IPC), which assigned a mediator to assist the parties in resolving the issues in dispute.

[5] Following discussions about The Royal's decision, the appellant advised the mediator that he was not seeking access to any of the records being withheld pursuant to the solicitor-client privilege exemption in section 19 of *FIPPA* or on the basis that they contain the personal health information of another individual.<sup>3</sup>

[6] The appellant advised the mediator, however, that he believed that The Royal had not located all of the records responsive to his request. That appellant also amended his request at mediation to seek access to general records (as opposed to records about himself) relating to whether The Royal can perform a "paranoia assessment" under the programs listed in his access request.

[7] The mediator informed The Royal of the appellant's position, including that he sought general records in the amended request. In response, on February 7, 2021, The Royal issued a supplemental decision letter to the appellant that provided the appellant with a website link to the relevant programs that are provided at The Royal, as well as information about the referral process.<sup>4</sup> The Royal also advised the appellant that "impairment, risk assessment, violence prevention, risk management" are not programs at The Royal and that, therefore, there are no responsive records about these program or service areas.

[8] The appellant advised the mediator that he was dissatisfied with this decision because he still believes that more records exist. He also further clarified his request made at mediation as seeking access to any and all of the records described under

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<sup>2</sup> In the access decision, The Royal also provided the appellant with a form to request access to personal health information about himself under the *Personal Health Information Act*. The appellant declined to file a request form under *PHIPA* and repeated in his representations provided during the inquiry that he did not want to submit a form for an access request for personal health information under *PHIPA*.

<sup>3</sup> Therefore, information withheld pursuant to the solicitor-client privilege exemption in section 19 of *FIPPA* or on the basis that they contain the personal health information of another individual is not at issue in this order.

<sup>4</sup> <https://www.theroyal.ca/refer-patient>

sections 13(2), 32, and 33 of *FIPPA* relating to the programs.<sup>5</sup>

[9] Mediation did not resolve the issues in this appeal and the mediator issued a Mediator's Report, following which the appeal was transferred to the adjudication stage. In response to the Mediator's Report, the appellant advised the IPC that he wanted the entire file created by the mediator removed from the adjudication file on appeal, as the mediator's report did not accurately reflect what had happened in the appeal thus far.<sup>6</sup>

[10] The adjudicator formerly assigned to this appeal decided to conduct an inquiry and initially sought representations from the appellant on The Royal's search for general records from the appellant on his amended access request as it existed at the end of mediation. In the Notice of Inquiry, this adjudicator advised the appellant that:

The revised mediator's report describes the records that you believe should exist in the Royal's record holdings as, "The records described under sections 13(2), 32 and 33 of the Act relating to the Programs and the records relating to whether the Royal can perform a "paranoia assessment" under the Programs." It is my understanding that you believe that there are omissions in this description. **Please identify these omissions and describe all of the additional records that you believe should exist in the Royal's record holdings.**

Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist. **Please explain your basis and reasons for believing that additional records exist that the Royal has not identified.** [Emphasis in original].

[11] In other words, representations were sought on The Royal's search for general records, not for records containing the appellant's own personal health information.

[12] In response to the Notice of Inquiry sent to him, the appellant provided representations in which he again stated that the mediation information in this appeal was inaccurate and asked that it be disregarded.

[13] In his response to the Notice of Inquiry, the appellant disagreed with the scope of his request as described by the former adjudicator in the Notice of Inquiry. Besides wanting the adjudicator to adjudicate upon more than whether The Royal conducted a reasonable search for sections 13(2), 32, 33 *FIPPA* records, he advised that, prior to

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<sup>5</sup> These sections of *FIPPA* encompass a very wide range of all kinds of general records, including factual material, surveys, reports, studies, plans, proposals, reasons for a final decision, order or ruling, manuals, directives, instructions, and guidelines.

<sup>6</sup> Confidential discussions that take place during mediation are not shared with the adjudicator. A Mediator's Report, containing non-confidential background and listing the remaining issues for adjudication, is shared with the adjudicator.

providing representations on the search issue, he wanted The Royal to first disclose all section 32 of *FIPPA* general records that The Royal provided to the Minister of Health.

[14] The appellant also wanted the adjudicator to adjudicate upon what he described as a confidential communication between the mediator and The Royal or a draft of a decision letter of The Royal dated February 3, 2021.

[15] The appeal was then assigned to me to continue the inquiry. Upon review of both requests [the original request for records about the appellant and the request at the end of mediation for general records of the types listed in sections 13(2), 32, and 33 of *FIPPA*], the Mediator's Report, the initial Notice of Inquiry, and the appellant's two demands to the IPC to have the mediation information removed from consideration at the adjudication stage of the appeal, I determined that the appellant's request as amended at mediation for sections 13(2), 32, and 33 of *FIPPA* general records about The Royal's programs was a different and distinct request from his original request.

[16] The original request, which was the request that was appealed by the appellant to the IPC, was for records related to the appellant's own situation.

[17] As noted above, the request as it stood at the end of mediation was for records of the type described under sections 13(2), 32 and 33 of *FIPPA* relating to the Royal's various programs. These sections of *FIPPA* encompass a very wide range of all kinds of general records, including factual material, surveys, reports, studies, plans, proposals, reasons for a final decision, order or ruling, manuals, directives, instructions, and guidelines.<sup>7</sup>

[18] I decided to begin the inquiry anew and adjudicate upon the original request only, as the request at the end of mediation, which had not been mediated upon, was a different request that was appealed to the IPC. In addition, the information that the appellant wanted to be adjudicated also included much more information than even the request as it stood at the end of mediation.

[19] I wrote to the appellant and The Royal<sup>8</sup> and advised them that, as the new adjudicator in this appeal, after considering the wording of the request at the end of mediation and the appellant's submissions on the appeal as it stood at the end of mediation, I had decided to begin the inquiry anew and seek representations from The Royal on the reasonableness of its search for records responsive to the appellant's original request. In this regard, I advised the appellant and The Royal that I would be relying on the following documents:

- The original request;

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<sup>7</sup> More particularly described sections 13(2), 32 and 33 of *FIPPA*.

<sup>8</sup> The letter to The Royal was dated July 19, 2021 and accompanied the Notice of Inquiry from me seeking representations on The Royal's search for records responsive to the original request. The letter to the appellant was also dated July 19, 2021 and enclosed my letter to The Royal of the same date.

- The Royal's decision letter on the original request;
- The representations provided after the date of my letters to the appellant and The Royal advising them that the inquiry was to begin anew (July 19, 2021); and,
- The records The Royal disclosed to the appellant in response to the original request.

[20] The Royal provided representations in response to my letter, and in response to the Notice of Inquiry that I sent to it, on the reasonableness of its search under *FIPPA* for records responsive to the appellant's original request.

[21] I then provided the appellant with a Notice of Inquiry and a copy of The Royal's representations on the original request. I asked him to provide representations in response to The Royal's representations about its search for records in response to his original request. The appellant provided representations in response.

[22] In this order, since both *FIPPA* and *PHIPA* apply to the types of records the appellant seeks, and The Royal has not yet searched for referral records or other records to which it considers *PHIPA* to apply, I do not uphold The Royal's search for records and order The Royal to conduct another search for records responsive to the appellant's original request and to issue an access decision under *PHIPA*.

## **DISCUSSION:**

### **Did The Royal conduct a reasonable search for records in response to the original request?**

[23] The Royal is a specialized mental health centre and hospital and treats people with complex and serious mental illness.<sup>9</sup> The Royal is subject to both *FIPPA* and *Personal Health Information Protection Act, 2004 (PHIPA)*, because it is both a "health information custodian" as defined by and subject to *PHIPA*,<sup>10</sup> and an "institution" as

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<sup>9</sup> See <https://www.theroyal.ca/mental-health-programs> and <https://www.theroyal.ca/our-history>

<sup>10</sup> Section 3(1) of *PHIPA* states that:

"health information custodian", subject to subsections (3) to (11), means a person or organization described in one of the following paragraphs who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties or the work described in the paragraph, if any:

1. A health care practitioner or a person who operates a group practice of health care practitioners.
2. A service provider within the meaning of the Home Care and Community Services Act, 1994 who provides a community service within the meaning of that Act. A service provider is a health information custodian in connection with the provision of any community service within the meaning of Home Care and Community Services Act, 1994, regardless of whether a particular community service is publicly funded.

defined by and subject to *FIPPA*.<sup>11</sup>

[24] The right of access in *PHIPA* applies to “records” of “personal health information” held by a health information custodian, such as The Royal. In situations where both *PHIPA* and *FIPPA* could apply, the IPC has found that the right of access should first be considered under *PHIPA*, and then the requester’s right of access under *FIPPA* is considered, with respect to any records or portions for records for which a determination has not been made under *PHIPA*.

[25] In my view, the appellant’s request, properly understood, is for records of his own personal information (which would be governed by *PHIPA*, and also possibly by *FIPPA*<sup>12</sup>).

[26] The IPC has addressed the issue of reasonable search under both *PHIPA* and public sector access and privacy legislation (*FIPPA*, and its municipal counterpart). In particular, in *PHIPA* Decisions 17 and 18, the IPC observed that the principles established in reasonable search orders issued under the public sector access and privacy legislation provide guidance in determining whether a health information custodian has conducted a reasonable search under *PHIPA*.<sup>13</sup>

[27] The issue to be decided is whether the custodian has conducted a reasonable search for records as required by section 54 of *PHIPA* and section 24 of *FIPPA*.

[28] The search analyses under *PHIPA* and *FIPPA* are similar. The *Acts* do not require the custodian to prove with absolute certainty that further records do not exist. However, the custodian must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.<sup>14</sup> To be responsive, a record must be “reasonably related” to the request.<sup>15</sup>

[29] If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold The Royal’s decision. If I am not satisfied, I may order further searches.

[30] 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 which are reasonably related to the request.<sup>16</sup>

[31] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all

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<sup>11</sup> Section 2(1)(a.2) of *FIPPA* states that an “institution” means a hospital.

<sup>12</sup> For portions of records of personal health information in respect of which no determination has been made under *PHIPA*: see *PHIPA* Decision 73.

<sup>13</sup> See also *PHIPA* Decisions 18, 43, 48, 55, 57, 61, 65, 73, 89, 126, and 141.

<sup>14</sup> Orders P-624 and PO-2559.

<sup>15</sup> Order PO-2554.

<sup>16</sup> Orders M-909, PO-2469 and PO-2592.

of the responsive records within its custody or control.<sup>17</sup>

[32] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.<sup>18</sup>

### ***Representations***

[33] The Royal provided representations by way of a letter from its Director of Clinical Records, Chief Privacy Officer (the Director), whose role includes processing and managing access requests under *FIPPA*.

[34] The Director states that The Royal interpreted the original request as being for any records or documentation related to the referral of the appellant for a querulous paranoia assessment, including any communications he may have had with The Royal.

[35] The Director states that The Royal's initial access decision of August 5, 2020 disclosed to the appellant emails and their attachments involving, and arising out of, emails and communications from and with the appellant as to his seeking to be assessed for querulous paranoia.

[36] Regarding its search for records, the Director states that, as a first step, she reviewed the request with the Manager of Client/Family Relations whose responsibilities include providing support to clients and family members that have questions or concerns associated with communicating with or obtaining services from The Royal. The Director also reviewed the request with the Manager of Patient Care Services who has knowledge of the programs and services that are offered at The Royal.

[37] The Director states that she learned that The Royal does not have, and did not previously have, any programs whose specific purpose is to receive referrals for the assessment of querulous paranoia from health care providers, the courts, or individuals directly. The Director says she was also advised that The Royal does not have any policies, procedures, institutional records, program documents, agreements, or similar records that discuss assessments for querulous paranoia.

[38] From those discussions with other management staff, the Director also learned that the appellant had communicated with The Royal by email seeking to be assessed for querulous paranoia. As such, she says that a thorough email search was also performed to gather responsive information. She states that a broad and inclusive approach was used and The Royal provided the redacted responsive records that were

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<sup>17</sup> Order MO-2185.

<sup>18</sup> Order MO-2246.



located under *FIPPA* to the appellant with its decision letter dated August 5, 2020.<sup>19</sup>

[39] The Director states that she is satisfied from her discussions with the Manager of Client/Family Relations and the Manager of Patient Care Services that responsive records related to an assessment for querulous paranoia, other than the emails provided to the appellant, did not exist.

[40] The Director further states that The Royal has provided the appellant with all responsive records in its custody or control and that no further records exist. She states that The Royal is not aware of any records that are not its possession that would be responsive to the request.

[41] The appellant provided extensive representations. However, although I have reviewed them in their entirety, they do not address whether The Royal conducted a reasonable search for records about the programs where a querulous paranoia assessment referral about him may be made, as set out in the original request. Instead, the appellant's representations focus on his concerns about his interactions with The Royal and other entities.

### ***Findings***

[42] The Royal only conducted searches for responsive records under *FIPPA*. As The Royal's August 5, 2020 decision letter appears to indicate that there are both responsive *FIPPA* and *PHIPA* records, I will first consider whether The Royal should be required to search for additional records to which *PHIPA* may apply, and to issue a *PHIPA* access decision to the appellant.

[43] The appellant submitted his original access request to The Royal by email to The Royal's Chief Privacy Officer,<sup>20</sup> not using an access request form. In his email to The Royal he refers to *FIPPA* and seeks access to the records as set out in his original request that relate to the decision about his querulous paranoia assessment referral.

[44] According to The Royal, prior to submitting his access request, the appellant had been communicating with The Royal via email seeking to be assessed for querulous paranoia.

[45] In its representations, The Royal states that it interpreted the original request as being for any records or documentation related to the referral of the appellant for a querulous paranoia assessment, including any communications the appellant may have had with The Royal about such referrals.

[46] The Royal acknowledged receipt of the appellant's emailed access request and in

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<sup>19</sup> I observe here again that these records may be governed by *PHIPA*, but as the redactions made to these records are not at issue before me, I make no finding on them.

<sup>20</sup> The Royal's website lists the email address of The Royal's Chief Privacy Officer.

response, issued the August 5, 2020 access decision letter. In this decision letter, The Royal disclosed emails to the appellant, citing *FIPPA*, and advised the appellant that its decision letter was for *FIPPA* records. It also advised the appellant that it would not process his request for any records that may be accessible under *PHIPA* without receiving the appellant's request on its own form for access requests under *PHIPA*. As noted above, it stated:

Additionally, part of your request includes Referral documentation, which is considered Personal Health Information (PHI) and is not subject to the Act [*FIPPA*] but would be subject to the Personal Health Information Protection Act (*PHIPA*). The process to request this information is to complete the included Request to Access Personal Health Information form [*PHIPA* request form], and return to Clinical Records at the Royal.

[47] Therefore, although The Royal recognized that the appellant's original request also sought records that are subject to *PHIPA*, it took the position that it would not process his request for records that it considered to be *PHIPA* records as it was not submitted on its *PHIPA* request form.

[48] The appellant refused to file The Royal's *PHIPA* request form for access to his personal health information. In his representations, he states that:

Asking me to fill another PHIPA form<sup>21</sup> is violation of the Canada Health Act and my s. 7 Charter rights because "lack of timely health care can result in death" or imprisonment or institutionalization or homelessness.

[49] From my review, although it details how to make a *PHIPA* access request by mail or hand delivery, The Royal's website does not specifically mention how to make an access request for *PHIPA* records. Nor does this website contain information as to how to make a *PHIPA* request by email.

[50] Section 53 of *PHIPA* only requires that an individual seeking access to a record of personal health information make a written request for access to the health information custodian. *PHIPA* does not require that this request be in a specific form.

[51] I find for the following reasons that The Royal should have processed the appellant's original request under both *FIPAA* and *PHIPA*, as in the circumstances of this appeal it was clear that the appellant sought both *FIPPA* and *PHIPA* records, as acknowledged by The Royal itself in its August 5, 2020 access decision.

[52] The Royal has not searched for records referral documentation or other records to which it considers *PHIPA* may apply.

[53] The Royal, as noted above, is a hospital that is subject to both *PHIPA* and *FIPPA*.

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<sup>21</sup> The appellant did not provide details about any prior *PHIPA* request forms he may have completed.

In *PHIPA* Decision 17, former Assistant Commissioner Sherry Liang stated that:

There is also no dispute that the hospital<sup>22</sup> is a body that is subject to both statutes. It is operated by a person who is a health information custodian within the meaning of *PHIPA* (section 3(1)).<sup>23</sup> It is also an institution within the meaning of *FIPPA* (section 2(1)).<sup>24</sup>

Therefore, a requester's right of access to information held by the hospital may be governed by *PHIPA* or *FIPPA*. Since it is subject to both these statutes, the threshold question for the hospital, when it receives a request for access to records, is whether *PHIPA* or *FIPPA*, or both, applies to the request.

In some circumstances, there will be no difficulty deciding at the outset which of these statutes applies to a request.

...In other circumstances, however, determining the answer to this threshold question is more complex. For example, a requester may be seeking access both to her own personal health information, as well as to other general information held by the hospital, such as its operational policies. If the health information custodian is also institution subject to *FIPPA* or *MFIPPA*,<sup>25</sup> the requester may have rights of access to both kinds of information under the different statutes (*PHIPA*, section 8(4)). In every case, it is essential to begin with the request, and, where necessary, to clarify with the requester the scope of the request and her intent in making the request.

[54] In *PHIPA* Decision 17, the hospital initially processed the request under *FIPPA* because it considered the request as having been made to it under *FIPPA*, and not under *PHIPA*. In *PHIPA* Decision 17, the Assistant Commissioner decided that the request was properly understood as a request for access under *PHIPA* that includes, as a discrete component, a request for access under *FIPPA*. She found that the hospital's initial treatment of the request was too narrowly focused on the form of the request

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<sup>22</sup> The hospital in *PHIPA* Decision 17 is Mackenzie Health, formerly known as York Central Hospital.

<sup>23</sup> The former Assistant Commissioner found that Mackenzie Health is a hospital within the meaning of the *Public Hospitals Act* and that the person who operates the hospital is a health information custodian pursuant to paragraph 4.i of section 3(1) of *PHIPA*, having regard to the *Public Hospitals Act*, section 32.1(2); Regulation 964 to the *Public Hospitals Act*, section 1(2); and the inclusion of the hospital on the list of hospitals under the *Public Hospitals Act* maintained by the Minister of Health and Long-Term Care, here: <http://www.health.gov.on.ca/en/common/system/services/hosp/>

<sup>24</sup> Section 2(1) includes a "hospital" at paragraph a.1 of the definition. The former Assistant Commissioner found that Mackenzie Health is an institution within the meaning of *FIPPA*, having regard to the definition of hospital set out at section 2(1) of *FIPPA*, and the sections of the *Public Hospitals Act* and Regulation 964.

<sup>25</sup> The municipal counterpart to *FIPPA* is the *Municipal Freedom of Information and Protection of Privacy Act* (*MFIPPA*).

rather than on its substance.

[55] In order to determine whether *PHIPA* applies, or *FIPPA*, or both, the Assistant Commissioner determined that the hospital ought to have focused on the context out of which the request arose and the nature of the information sought by the requester. She, therefore, adjudicated the appeal in PHIPA Decision 17 under both *PHIPA* and *FIPPA*.

[56] I agree with the Assistant Commissioner's analysis. I find that in this appeal, The Royal too narrowly focused on the form of the request rather than on its substance. Having determined that both *PHIPA* and *FIPPA* applies to the request, The Royal should have processed the request under both statutes. However, The Royal only processed the request under *FIPPA*, and not under *PHIPA*. In fact, it does not appear that The Royal conducted any search for records that it considered to be records governed by *PHIPA*. Therefore, as the appellant's request sought records under both *FIPPA* and *PHIPA*, I will order The Royal to issue an access decision under PHIPA, without requiring the appellant to file his request on The Royal's *PHIPA* request form.

[57] As set out above, after reviewing the appeal file, I decided to adjudicate on The Royal's search for records responsive to the appellant's original request and informed the parties of this.

[58] Based on my review of The Royal's representations in their entirety, I find that The Royal properly interpreted the original request as being for any records or documentation related to the referral of the appellant for a querulous paranoia assessment, including any communications the appellant may have had with The Royal about such referrals.

[59] Therefore, this order concerns the reasonableness of The Royal's search for records about which a querulous paranoia assessment referral about the appellant could be made, including under what conditions, such as a court order, all of which is more particularly described above in the appellant's original request.

[60] I pause here to note that many of these types of records would likely be governed by *PHIPA*, because they would contain the appellant's personal health information.

[61] The hospital has disclosed emails, ostensibly under *FIPPA* but in my opinion *PHIPA* could also apply to those emails, as they would likely contain the appellant's personal health information. Nonetheless, as these emails have already been provided to the appellant, and the appellant did not appeal the redactions, the appellant's access to them no longer at issue.

[62] In response to the appellant's original request, The Royal acknowledged that it has additional responsive records that are subject to *PHIPA* (i.e. referrals) but it did not identify them in its August 5, 2020 decision. Nor did The Royal issue an access decision

about records that contain the appellant's personal health information under *PHIPA*.

[63] The Royal did not search for all records that included the personal health information of the appellant under *PHIPA* about which a querulous paranoia assessment referral about the appellant could be made, including under what conditions, such as a court order, all of which is more particularly described above in the appellant's original request.

[64] By refusing to conduct a search for records under *PHIPA*, I find that The Royal did not conduct a reasonable search for responsive records.

[65] Therefore, I find that The Royal's search is not reasonable and I will order The Royal to issue another access decision after searching for records that contain in whole or in part the appellant's personal health information under *PHIPA*.

**ORDER:**

1. I do not uphold The Royal's search for records responsive to the original request.
2. I order The Royal to search for additional responsive records that are governed in whole or in part by *PHIPA*, and to issue a further access decision on the appellant's original request, without requiring the appellant to file his request in The Royal's *PHIPA* request form, treating the date of this order as the date of the request for the purposes of the procedural requirements of *PHIPA*.

Original Signed by: \_\_\_\_\_

Diane Smith  
Adjudicator

\_\_\_\_\_ May 11, 2022