



Information and Privacy  
Commissioner/Ontario

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

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# INVESTIGATION REPORT

## INVESTIGATION I95-007M

### A MUNICIPALITY

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**June 15, 1995**



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# INTRODUCTION

## Background of the Complaint

This investigation was initiated as a result of a complaint concerning a Municipality.

The complainant had been in receipt of General Welfare Assistance (GWA) from the Municipality. The complainant stated, however, that in September 1994, he became employed with the Municipality as a Welfare Visitor.

In December 1994, the Municipality terminated the complainant's employment. In his letter of termination, the complainant's Unit Manager stated that he had failed to declare assets resulting in his receiving general welfare assistance that he was otherwise not eligible for. The Unit Manager further stated that since the complainant's position of Welfare Visitor required a high degree of integrity and financial trust, the complainant was deemed to be an "unsuitable probationary employee".

The complainant subsequently filed a grievance. He stated that during the Step II grievance meeting, the Unit Manager claimed that she had received a telephone call from an employee of the Social Services Division who stated that the complainant had not declared all of his assets, resulting in his receiving GWA benefits that he was not eligible for. The complainant added that the Unit Manager claimed that she could not recall from whom she had received this telephone call.

The complainant further stated that during the Step II grievance meeting, the Municipality's Manager of Employee Relations stated that he had seen and read the contents of the complainant's GWA file.

The complainant believed that the disclosure of his personal information to his Unit Manager and the Manager of Employee Relations contravened the Municipal Freedom of Information and Protection of Privacy Act (the Act).

## Issues Arising from the Investigation

The following issues were identified as arising from the investigation:

- (A) Was the information in question "personal information" as defined in section 2(1) of the Act? If yes,
- (B) Was the complainant's personal information disclosed to the Unit Manager, in compliance with section 32 of the Act?
- (C) Was the complainant's personal information disclosed to the Manager of Employee Relations, in compliance with section 32 of the Act?

## RESULTS OF THE INVESTIGATION

### **Issue A: Was the information in question "personal information" as defined in section 2(1) of the Act?**

Section 2(1) of the Act states, in part:

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

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

The information in question was that the complainant had allegedly not declared all of his assets, resulting in his receiving GWA benefits that he was not entitled to.

It also included information contained in the complainant's GWA file, such as information about the complainant's rent, medical and resident status, last employment, last source of income and current and expected income, and family size and relationship. It also included "flyleaf entries" from the "Income Maintenance/Eligibility Record", which recorded all communications between the complainant and his Welfare Visitor.

In our view, this information met the requirements of paragraphs (a), (b) and (h) of the definition of "personal information" in section 2(1) of the Act.

**Conclusion:** The information in question was "personal information" as defined in section 2(1) of the Act.

### **Issue B: Was the complainant's personal information disclosed to the Unit Manager, in compliance with section 32 of the Act?**

As previously mentioned, the complainant stated that during the Step II grievance meeting, the Unit Manager claimed that she had received a telephone call from an employee of the Social Services Division who stated that the complainant had not declared all of his assets, resulting in his receiving benefits that he was not eligible for. The complainant added that the Unit Manager claimed that she could not recall from whom she had received this information.

Under the Act, personal information in the custody or under the control of an institution cannot be disclosed except in the specific circumstances outlined in section 32.

The Municipality submitted that on August 10, 1994, a letter was received from the complainant, in which he had complained about his Caseworker/Welfare Visitor. The Municipality added that a Staffing Co-ordinator subsequently investigated these complaints, and during the investigation "concerns were raised because the complainant was a temporary probationary employee and registered as being currently in receipt of assistance."

As a result of the above concerns, the Municipality's Fraud and Investigations Unit investigated the matter, and determined that the complainant had received benefits to which he was not entitled. The Municipality's Freedom of Information and Privacy Co-ordinator stated that it was the Fraud and Investigations Unit of the Social Services Division that had advised the complainant's Unit Manager of its findings.

The Municipality submitted that: "Consistent with s.32 (d) of the Act, (the named Unit Manager) was advised of the outcome of the investigation as it had a direct bearing on the employee-employer relationship."

The Municipality also indicated that the Unit Manager had provided the complainant with a letter setting out the reasons for termination, "in accordance with her responsibilities as Unit Manager".

Section 32(d) of the Act states that an institution shall not disclose personal information in its custody or under its control except: "if the disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and if the disclosure is necessary and proper in the discharge of the institution's functions."

In our view, the Unit Manager would have needed the complainant's personal information in the performance of her duties as a manager, namely, being aware of incidents affecting the employment status of a subordinate employee. It is also our view that disclosing this information was necessary and proper in discharging the institution's function of human resource management. It is our view, therefore, that the disclosure of the complainant's personal information to the Unit Manager, an employee of the Municipality, was in compliance with section 32(d) of the Act.

**Conclusion:** The complainant's personal information was disclosed to the Unit Manager, in compliance with section 32 of the Act.

**Issue C: Was the complainant's personal information disclosed to the Manager of Employee Relations, in compliance with section 32 of the Act?**

The Municipality stated that the Manager of Employee Relations was responsible for representing the Municipality at grievance and arbitration hearings, wrongful dismissal actions, human rights investigations, etcetera, involving employees from the complainant's department. The Municipality further stated that the complainant's union's position was that the hiring process

of the complainant was irregular and improper, the fraud investigation was inadequate, and the termination was discriminatory.

The Municipality submitted that in preparing for the Step II grievance meeting, the Manager of Employee Relations "obtained copies of the records which would be relied upon during the grievance process." The Municipality stated that the Manager of Employee Relations required access to these records in order to represent the Municipality's position in respect of these matters.

While the complainant contended that the Manager of Employee Relations had stated, during the Step II meeting, that he had seen and read the contents of his GWA file, the Municipality submitted that the Manager of Employee Relations had seen a total of only 22 pages from the complainant's GWA file.

The complainant provided us with a copy of the notes recorded by his union representative during the Step II meeting. The notes did not indicate that the Manager of Employee Relations had seen and read the contents of the complainant's GWA file. We also spoke with the union representative. She stated that she could neither confirm nor deny that the Manager of Employee Relations had said this.

Since the complainant's and the Municipality's accounts of what was said by the Manager of Employee Relations during the Step II meeting differ, we are unable to conclude whether or not the Manager of Employee Relations had seen and read the **entire** contents of the complainant's GWA file.

The Municipality, however, did provide us with a copy of the aforementioned 22 pages, which consisted of 17 pages of flyleaf entries from the "Income Maintenance/Eligibility Record"; an "Eligibility Assessment Sheet"; a letter written by the complainant to an Area Office Manager complaining about his Caseworker and the Area Office Manager's reply; and a one-page document containing information under the headings: "Referral Date", "Client Data", "Disentitlement Data", and "Evidence". The Municipality's Freedom of Information and Privacy Co-ordinator stated that the Manager of Employee Relations had both requested and received these records from the aforementioned Area Office Manager to whom the complainant had complained about his Caseworker.

The Municipality relied on section 32(d) of the Act for the disclosure of the complainant's personal information to the Manager of Employee Relations (for the complete text of section 32(d) see Issue B).

In our view, one of the Municipality's functions as an employer is to respond to grievances made by one of its employees.

The Manager of Employee Relations was the Municipality employee who was responsible for representing the Municipality's interests at the Step II meeting. The Municipality took the position that in order to adequately prepare for the Step II meeting, the Manager of Employee

Relations had to be aware of any information that the Municipality might be required to respond to during the meeting.

Based on all of the above, it is our view that section 32(d) of the Act applies in the circumstances of this case. The complainant's personal information, which was contained in the 22 pages in question, was disclosed to the Manager of Employee Relations, an employee of the Municipality, who needed this information in the performance of his duties, and the disclosure was necessary and proper in the discharge of one of the Municipality's functions, i.e., participating in a grievance meeting to which it was a party.

**Conclusion:** Since the complainant's and the Municipality's accounts of what was said by the Manager of Employee Relations during the Step II meeting differ, we are unable to conclude whether or not the Manager of Employee Relations had seen and read the entire contents of the complainant's GWA file.

The complainant's personal information, which was contained in the 22 pages in question, was disclosed to the Manager of Employee Relations, in compliance with section 32 of the Act.

## SUMMARY OF CONCLUSIONS

- The information in question was "personal information" as defined in section 2(1) of the Act.
- The complainant's personal information was disclosed to the Unit Manager, in compliance with section 32 of the Act.
- Since the complainant's and the Municipality's accounts of what was said by the Manager of Employee Relations during the Step II meeting differ, we are unable to conclude whether or not the Manager of Employee Relations had seen and read the entire contents of the complainant's GWA file.
- The complainant's personal information, which was contained in the 22 pages in question, was disclosed to the Manager of Employee Relations, in compliance with section 32 of the Act.

Original signed by: \_\_\_\_\_  
Susan Anthistle  
Compliance Review Officer

Date June 15, 1995

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