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

ORDER P-1635

Appeal P_9800115

Ministry of Health

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NATURE OF THE APPEAL:

The Ministry of Health (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to the following information from the database of the College of Physicians and Surgeons of Ontario (the College) regarding all members of the College:

> Name
> Address
> Year Medical Degree Obtained
> Specialty
> Telephone Number
> Facsimile Transmission Number
> Status: not limited to but including whether "student-post-graduate, active in practise, terminated, terms and conditions."

The information was located by the Ministry in its Corporate Provider Database (CPD). However, the Ministry denied access to the information on the basis of section 22(a) of the Act, claiming that the information was publicly available from the College. The appellant was provided with the College's address and telephone number.

According to the appellant, she contacted the College, and was informed that the requested list was not available from the College, but could be purchased from the Southam Medical Group (Southam). The appellant contacted Southam and was advised that the list was not available to the public on demand, but could be purchased on a fee-per-usage basis. Further, according to the appellant, she was informed by Southam that it would require details regarding the intended use of the information before a decision would be made to provide the requested information in bulk.

Based on this information, the appellant concluded that the requested information was not available to the public, and appealed the Ministry's decision regarding section 22(a) of the Act.

During mediation, the Ministry issued a second decision letter, claiming that the requested information was also exempt under sections 17(1)(a) and (c) (third party information) and sections 21(1) (invasion of privacy) of the Act. The Ministry also issued a fee estimate of $5,377.36 to produce an electronic copy of the record and/or $6,812.36 for a hardcopy version of the same record, should access be granted.

The appellant appealed this decision as well, and also claimed that there was a compelling public interest in disclosure of the records pursuant to section 23 of the Act.

This office sent a Notice of Inquiry to the Ministry, the appellant and the College. Southam subsequently contacted this office, asking to be added as a party to the appeal. I decided to allow Southam the opportunity to provide representations on the section 17(1) and 23 issues. Representations were received from the three parties to the appeal, and from Southam.

In its representations, the Ministry withdrew its section 22(a) exemption claim, so I will not consider it in this order.

The records at issue in this appeal are the electronic or hardcopy listing of the requested categories of information on all physicians in Ontario drawn from the Ministry's CPD.

DISCUSSION:

PERSONAL INFORMATION/INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined to mean 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,
>
> (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.

In determining whether or not the records contain personal information, it is important to recognize that the appellant is seeking access to the full spectrum of information outlined in the request, not individual pieces of information, such as business telephone or facsimile numbers. Therefore, I have treated the requested information as a package in assessing whether or not it falls within the scope of the definition of personal information.

All of the parties, including the appellant, submit that the records contain the personal information of the approximately 30,000 physicians listed in the CPD. The Ministry and the College explain that the CPD includes the name, address, the year the medical degree was obtained, any registration limitations or conditions, registration number and status of each registered physician. I agree with the position taken by the parties. The requested information is either captured by one or more of the specific parts of the definition of personal information, or otherwise deals with information concerning practising status with the College, the body charged with statutory authority to regulate the profession. In my view, this is information about the individual physician, as required by the definition of personal information contained in the Act.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits disclosure of this information to any person other than the individual to whom the information relates, except in certain circumstances.

In its second decision letter, the Ministry raised section 21(1)(f) (unjustified invasion of privacy) as the basis for denying access. The Notice of Inquiry raised the possible application of sections 21(1)(c) and (d), which are exceptions to the mandatory exemption claim. In her representations, the appellant submits that the exception in section 21(1)(a) also applies. These sections read as follows:

> (1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,
>
> (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
>
> (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
>
> (d) under an Act of Ontario or Canada that expressly authorized the disclosure;
>
> (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 21(1)(c) and (d)

It is clear that an express statutory authority must exist in order to satisfy the requirements of section 21(1)(d); no similar statutory requirement need be present for section 21(1)(c) to apply. However, in the circumstances of this appeal, the arguments put forward by the appellant under section 21 are based in large part on the existence of a statutory scheme which governs the administration of a system of public access to certain information. Because of this linkage and the similarity of the arguments for these two exceptions, I have decided to deal with them together in this appeal.

Portions of section 23 of the Health Professions Procedure Code (the HPPC) (which is a schedule to the Regulated Health Professions Act (the RHPA)), and sections 11-13 of Ontario Regulation 241/94 under the Medicine Act (the Regulation) are relevant to the discussion of section 21(1)(c), and particularly section 21(1)(d).

Under section 23(1) of the HPPC, the Registrar of the College maintains a register. The contents of the register are prescribed by section 23(2) as follows:

> (2) The register shall contain,

(a) each member's name, business address and business telephone number;

(b) each member's class of registration and specialist status;

(c) the terms, conditions and limitations imposed on each certificate of registration;

(d) a notation of every revocation and suspension of a certificate of registration;

(e) the result of every disciplinary and incapacity proceeding;

(e.1) where findings of the Discipline Committee are appealed, a notation that they are under appeal;

(f) information that a panel of the Registration, Discipline or Fitness to Practise Committee specifies shall be included; and

(g) information that the regulations prescribe as information to be kept in the register.

Sections 11(1) and (2) of the Regulation expand on the contents of the register, the pertinent provisions of which are:

(1) In addition to the information required under subsection 23(2) of the Health Professions Procedural Code, the register shall contain the following information with respect to each member:

1. The member's name and any changes in the member's name since his or her undergraduate medical training.

2. The member's registration number.

3. The member's date and place of birth.

4. If the member has died, an indication that the member has died and the date of death.

5. The name of the medical school from which the member received his or her undergraduate medical degree and the date the member received the degree.

6. A description of the member's postgraduate training.

7. If the member has been certified by the Royal College of Physicians and Surgeons of Canada or the College of Family Physicians of Canada,

   i. that fact,

   ii. the date of the certification,

   iii. the discipline or subdiscipline in which the member is certified, and

   iv. the process by which the member was certified.

8. The classes of certificate of registration held by the member and the date on which each certificate was issued and, if applicable, the termination or expiration date.

. . .

10. The member's preferred address for communications from the College.

11. The address and telephone number of the member's principal place of practice.

12. The identity of each hospital and health facility in Ontario where the member has professional privileges, and the date they were granted and, if applicable, withdrawn.

13. If an allegation of professional misconduct or incompetence against the member has been referred to the Discipline Committee and not yet decided,

   i. a summary of the allegation,

   ii. an indication that the matter has been referred to the Discipline Committee, and

   iii. the anticipated date of the hearing, if the date has been set.

14. If a finding of professional misconduct or incompetence has been made against the member in or outside Ontario,

   i. that fact,

ii. the date of the finding and the place where it was made,

iii. a brief summary of the facts on which the finding was based,

iv. the penalty, and

v. subject to subsection 23(2.1) of the Health Professions Procedural Code, where the finding is under appeal, a notation to that effect.

15. If an allegation of the member's incapacity has been referred to the Fitness to Practise Committee and not yet decided, an indication of the referral.

16. If a finding of incapacity has been made in respect of the member,

i. that fact,

ii. a summary of the order made by the panel hearing the matter, and

iii. where the finding is under appeal, a notation to that effect.

(2) When an appeal of a finding of incapacity is finally disposed of, the notation added under subparagraph iii of paragraph 16 of subsection (1) shall be removed.

Section 12 of the Regulation deals with the public nature of the information contained in the registry as follows:

All information contained in the register, other than the member's preferred address for communications from the College, is designated as public except that,

(a) if,

(i) a finding of professional misconduct was made against a member,

(ii) the penalty imposed was a reprimand or a fine, and

(iii) at least six years have elapsed since the penalty order became final,

the finding of misconduct and the penalty are no longer public information; and

(b) if,

(i) terms, conditions or limitations were imposed upon a member's certificate of registration by a committee other than the Discipline Committee, and

(ii) the terms, conditions or limitations have been removed,

the fact and content of the terms, conditions or limitations are no longer public information.

As far as public access to registry information is concerned, sections 23(3) and (6) of the HPPC and section 13 of the Regulation provide:

23(3) A person may obtain, during normal business hours, the following information contained in the register:

1. Information described in clauses (2)(a) to (c).

2. Information described in clause (2)(d) relating to a suspension that is in effect.

3. The results of every disciplinary and incapacity proceeding completed within six years before the time the register was prepared or last updated,

i. in which a member's certificate of registration was revoked or suspended or had terms, conditions or limitations imposed on it, or

ii. in which a member was required to pay a fine or attend to be reprimanded or in which an order was suspended if the results of the proceeding were directed to be included in the register by a panel of the Discipline or Fitness to Practise Committee.

> 3.1 For every disciplinary proceeding, completed at any time before the time the register was prepared or last updated, in which a member was found to have committed sexual abuse, as defined in clause 1(3)(a) or (b), the results of the proceeding.
>
> 3.2 Information described in clause (2)(e.1) related to appeals of findings of the Discipline Committee.
>
> 4. Information designated as public in the regulations.
>
> 23(6) The Registrar shall provide to a person, upon the payment of a reasonable charge, a copy of any information in the register the person may obtain.
>
> 13(1) The information contained in the register which is designated as public shall be,
>
> (a) capable of being printed promptly; and
>
> (b) available in printed form to any person during the normal hours of operation of the offices of the College.
>
> (2) The Registrar may give any information contained in the register which is designated as public to any person in printed or oral form.

The appellant submits that the legislation requires the College to maintain the personal information of the registrants, and that section 23(3) of the HPPC allows members of the public to obtain this information, with the noted exceptions, from the College during normal business hours. The appellant also points out that section 23(6) requires the Registrar to provide a requester with a copy of any information in the register upon payment of a reasonable charge. The appellant points specifically to sections 11(1), (2), (5) and (11) of the Regulation and sections 23(2)(b) and (c) of the HPPC as the statutory authority for access to the information which forms the subject matter of her request under the Act.

The Ministry submits that the responsibilities articulated under the HPPC and the Regulation are those of the College and not the Ministry. In the Ministry's view, the section 21(1)(c) exception only applies to Ministry records. The Ministry relies on past decisions of this office which have held that where the availability of the information is not without restriction, it cannot be said that a record is "available to the general public", and section 21(1)(c) does not apply (Orders P-1232 and P-1407). As far as section 21(1)(d) is concerned, the Ministry submits that for this section to apply, the Ministry, not the College, must be expressly authorized to disclose personal information by statute. The Ministry states:

> In this case, it is clear that the information requested is **not being held by government** and whether or not Southam Medical charges a fee for access to the register information, the Ministry takes the position that the RHPA does not

> **expressly authorize** the disclosure of all the information requested by the appellant (Ministry's emphasis).

The College's representations support the Ministry's position on the application of these two sections.

The Ministry also points out that past orders of this office have recognized the unique nature of "bulk access" as opposed to access to information relating to a particular individual, pointing specifically to my Order P-1144. The appellant submits that her request is distinguishable from the one which was the subject of Order P-1144 in part on the basis that "[i]n this case, the information requested relates to such a limited group that is defined by reasonable criteria and it does not, by any means, entail a group that makes up a large percentage of the population of Ontario."

I accept the Ministry's positions on sections 21(1)(c) and (d).

While the personal information may be collected and maintained by the **College** for the specific purpose of creating a record that is available to the general public, the same cannot be said of the **Ministry**. The **Ministry**'s reasons for collecting and maintaining this information are different, and relate to its statutory responsibility to administer the Health Insurance Act (see section 37 of that statute and section 2 of Ontario Regulation 58/97). There is no requirement that the **Ministry** collect or maintain this type of personal information for the purpose of creating a record available to the general public and, as such, I find that section 21(1)(c) has no application in the circumstances of this appeal.

I find support for my position in a number of Compliance Investigation Reports issued by this agency which deal with the interpretation of section 37 of the Act (eg. Reports I94-011P, I95-024M and I93_009M). This section provides that:

> This Part [Part III] does not apply to personal information that is maintained for the purpose of creating a record that is available to the general public.

In Report I94-011P, Commissioner Ann Cavoukian stated:

> It is our view that, if applicable, section 37 excludes personal information from the privacy provisions of Part III of the Act only if the information in question is held by the institution maintaining it for the express purpose of creating a record available to the general public. **Other** institutions cannot claim the benefit of the exclusion for the same personal information unless they, too, maintain the information for the purpose of making it available to the general public. In our view, this interpretation is not only reasonable, but also in keeping with one of the fundamental goals of the Act, namely "to protect the privacy of individuals with respect to personal information about themselves held by institutions." [emphasis in original]

The fact that the College is not an institution covered by the Act does not alter the rationale expressed by Commissioner Cavoukian.

Similarly, I find that the section 21(1)(d) exception is also not applicable. No statute expressly authorizes the Ministry to disclosure personal information of the nature requested by the appellant, and without this express authority section 21(1)(d) cannot apply.

Although technically not necessary in order for me to dispose of this issue, I should point out that I also accept the Ministry's position on the similarity of this appeal to the one I dealt with in Order P_1144 and, as the Ministry describes it, "the important distinction between "one-off" or limited group requests and those for data in bulk". The quotations from Order P-1144 referred to in the Ministry's representations bear repeating here:

> The ministry [of Transportation] submits that personal information which is maintained for the purpose of creating a record that is available to the general public, as contemplated by section 37 [and presumably section 21(1)(c)], **changes its character where it is to be disclosed**, not as responses to individual requests for information about single individuals or a limited group defined according to some reasonable criteria, **but as the personal information of more than half of the total population of the Province**. [emphasis added by the Ministry of Health]
>
> The Ministry has a special bulk request policy which deals with large volume requests by individual requesters. Under that policy, requests are screened through the Licensing Administration Office to ensure that planned uses of the bulk information enhance road safety and do not involve uninvited solicitation. In order to qualify under this bulk access policy, a requester must apply for Authorized Requester status and, if granted, must enter into a formal agreement with the Ministry. This agreement controls the subsequent use of any bulk information provided by the Ministry.
>
> I accept the Ministry's submission that requests for information in bulk raise unique considerations which are relevant to the application of section 21(1)(c). The Ministry does not release information in response to bulk requests unless the requester is granted authorized user status and meets the criteria set out in its policy. **Clearly, bulk requests are not a routine matter but rather are subject to various constraints including a review process**. [emphasis added by Ministry of Health].
>
> It is also important to note that even in response to individual requests, the Ministry does not release driver licensing information pursuant to section 21(1)(c) unless specific identifiers, such as name or driver's licence numbers, are provided. Therefore, it cannot be said that the Ministry routinely releases information in the form requested by the appellant, the names **and** driver's licence numbers.

Although I acknowledge that the number of individuals contained in the drivers' licence database in Order P-1144 (all drivers in Ontario) is greater than the number of physicians contained in the CPD in this appeal (all doctors practising in Ontario), this difference is not sufficient to alter my conclusion. In my view, the approximately 30,000 physicians listed in the CPD clearly bring the

scope of the request within the category of "bulk access", and the reasoning outlined in Order P-1144 is equally applicable in the circumstances of this appeal.

In summary, I find that the exceptions provided by sections 21(1)(c) and (d) of the Act do not apply in the circumstances of this appeal.

Section 21(1)(a)

The appellant identified the possible application of section 21(1)(a) in her representations.

In Order P-181, former Commissioner Tom Wright dealt with a request for access to copies of press releases pertaining to lottery prize winners over a defined period. He set out the following three considerations for determining whether these prize winners had consented to disclosure of their personal information.

1. Does each lottery winner know what information about him or her is contained in the record?

2. Is it reasonable to assume that each lottery winner had knowledge of all of the institution's planned uses of the record containing his or her personal information?

3. Does an individual lottery winner have a choice regarding whether the personal information about him or herself would be included in the record?

The essence of the appellant's submissions is that these three considerations have been satisfactorily addressed in this appeal. Specifically, the appellant submits that:

1. The physicians know what information about them is contained in the record, since the physicians themselves provide the information to the College;

2. It is reasonable to assume that the individual physicians know of the Ministry's planned uses of the record containing their personal information, since these uses are outlined in the Regulation and the HPPC, and members of the public, such as the appellant, can request access to this information at any time; and

3. The provisions of the Regulation and the HPPC mean that physicians do not have a choice as to what personal information will be included in the register, or the information that will be made available to the public.

In Order P-181, former Commissioner Wright rejected the application of section 21(1)(a) on the basis that the second consideration had not been satisfactorily addressed. He stated:

> ... it is not reasonable to assume that lottery winners were aware that, after publication of their names at the time of the win, any member of the public could contact the institution at any time and obtain information as to the identity of the winner of the specified draw and his or her city or town of residence.

It is important to note that former Commissioner Wright specifically did not make a finding on the third consideration in Order P-181, because it was unnecessary to do so. However, had he gone on to consider this third factor, in my view, the absence of choice would have weighed against, rather than in favour of, a finding of implied consent. Consent implies choice. In the present appeal, the appellant acknowledges, quite correctly, that the statutory provisions remove any choice on the part of physicians. However, in my view, this is evidence of the absence of, not the presence of, consent.

I also do not accept the appellant's interpretation of the second consideration. Consistent with my findings under the section 21(1)(c) and (d) discussion, I find that it is the College, not the Ministry, that uses the personal information in accordance with the HPPC and the Regulation. The reasoning put forward by the appellant simply does not apply to the Ministry's use of the personal information, which has no connection whatsoever with the statutory rights and obligations contained in this legislative scheme. In addition, even if I were to accept the appellant's position on the second consideration, as I stated in Order P-1144 referred to earlier, personal information changes its character where it is disclosed in bulk rather than on a one-off basis. As the College explains in its representations, the purpose of its register is to make information about a particular physician available to the public in order the facilitate informed decision making about medical care. Clearly, access to the entire list of approximately 30,000 physicians is not necessary for this purpose, and I do not accept that individual registrants could reasonably be expected to have contemplated the bulk release of their personal information on request, either by the College or the Ministry. In my view, a reasonable assumption as to the planned use of personal information on an individual record basis cannot be extended to a fundamentally different use when dealt with in bulk.

Accordingly, I find that physicians did not provide consent to the disclosure of their personal information within the meaning of section 21(1)(a), and this exception, therefore, is not applicable in the circumstances of this appeal.

Section 21(1)(f)

In order for the section 21(1)(f) exception to apply, I must be satisfied that disclosure **would not** constitute an unjustified invasion of another individual's personal privacy.

Sections 21(2), (3) and (4) of the Act provide guidance in determining this issue. Where one of the presumptions in section 21(3) applies to the personal information, the only way it can be overcome is if the personal information falls under section 21(4), or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions in section 21(3) apply, the Ministry must consider the application of the factors listed in section 21(2) of the Act, as well as all other circumstances which are relevant in the circumstances of the case.

The appellant submits that it is not necessary to undertake this analysis because the disclosure is authorized by the HPPC and the Regulation, and this authority precludes a finding that disclosure is an unjustified invasion of privacy. Again, for the reasons articulated earlier in this order, I do not accept this position. The appellant's request is for bulk access to registrant information, which raises fundamentally different considerations, which are not addressed in the appellant's position.

The appellant also submits that none of the factors under sections 21(2) or (3) which favour privacy protection are present. However, she does not identify any of the factors in section 21(2) which favour disclosure. Despite the absence of representations from the appellant on this issue, I am prepared to accept that the existence of legislation which contemplates disclosure of registrant information on an individual request basis is a relevant consideration in determining whether disclosure of the record would be an unjustified invasion of personal privacy. However, I would give this factor minimal weight.

The College points out that the legislation does not contemplate disclosure of the personal information in bulk, and submits:

> The privacy interest in information about an individual is different from the privacy interest in information about a large number of individuals. Access to aggregate information can represent, or result in, an unjustified invasion of the personal privacy of an individual, even where access to information about that individual is not an unjustified violation of his or her privacy.

The Ministry's representations support the College's position. The Ministry relies on my decisions in Orders P-1144 and M-849, which also dealt with requests for personal information in bulk form. In those orders I found that disclosure of personal information in bulk would provide the appellants with the means to access significant amounts of personal information, with no controls over potential use. If access were provided in an electronic format, I pointed out that a requester would be able to develop a computer database of records, where various fields of data, including those containing personal information, can be easily searched, sorted, matched and manipulated for a wide variety of purposes. In my view, the widespread availability of sophisticated scanning technology extends this reasoning to hardcopy bulk access as well.

The Ministry provides the following example, which I feel clearly illustrates this point. [It should be stated that neither I nor the Ministry questions this particular appellant's motives in making her request or suggests that she has any intention of using the information in any improper way.]

> [Anyone who obtains access to the requested information] could compile a list of all [College] members in active practice with a specialty in obstetrics and gynacology along with their addresses. It is a simple matter to discover which address represents the locations of abortion clinics. It is also a simple matter to match the residential addresses of these individuals. One could then create a

website for posting on the Internet of the names, residential and business addresses of [College] members performing abortions.

In the November 1, 1998 edition of The Toronto Star newspaper, an article appeared under the heading "Abortion: Doctors on High Alert". The article referred to "the Ontario government [having] repeatedly blocked pro-life groups from accessing detailed information on where an how many abortions are being performed in the province" "... out of fear that its release could endanger the safety of abortion providers".

The article went on to describe how the requester was "shocked" when the official told her that handing over the information would endanger doctors and clinics". The relevant portion of the article for the purposes of this appeal is the following statement:

> In the U.S., however, anti-abortion advocates have used such information to assist in compiling detailed lists of abortion providers, assistants and their addresses and posting them on the Internet. Some of those on that list are Canadian. The U.S. anti-abortion extremists even urge supporters to take the law into their own hands.
> . . .
>
> "I was going through that Web page just the other night", [an Ontario physician] said.
>
> He noted with relief that he is not yet on the list himself, but said that could just be a matter of time.

The Ministry submits that providing the bulk data requested could facilitate the compilation, presentation and dissemination of such information concerning, for example, abortion providers, and result in the names of relevant [College] physicians appearing on the U.S. website, or a comparable Canadian one. The Ministry therefore submits that disclosure of the requested information could result in an unjustified invasion of the personal privacy of these individuals.

As this example illustrates, information which would arguably be non-controversial when available on a one-off basis can accurately be characterized as highly sensitive (section 21(2)(f)) when considered in bulk format, as in this appeal. This is particularly true when one recognizes that disclosure under the Act is not restricted to the specific requester, but is in effect "disclosure to the world". In my view, this factor alone is sufficient to outweigh the factor favouring disclosure described above.

Therefore, I find that the disclosure of the records would result in an unjustified invasion of the personal privacy of the registrants, and that the records are exempt under section 21(1) of the Act.

COMPELLING PUBLIC INTEREST

Section 23 of the Act reads as follows:

> An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and **21** does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption. [emphasis added]

In order for section 23 to apply, two requirements must be met. First, there must be a compelling public interest in disclosure; and second, this interest must clearly outweigh the purpose of the exemption.

The appellant submits the following:

> In addition to the fact that the Ontario Legislature has already decided that there is a compelling public interest in the disclosure of the records at issue, through its enactment of the aforementioned provisions in [the Regulation], and in the HPPC, the appellant submits that there is a compelling public interest in this case not to allow the establishment of an "information elite". In the context of section 22(a) of the Act, Commissioner Tom Wright made a comparable argument in his Postscript to Order P_496 where he held that it is not in the public interest to create such an "information elite". In that case, as in the present one, a government institution had contracted with a private company for the collection of the information, which would be available to the public on a high fee per usage basis.
>
> The Ministry's creation, through private arrangement, of a monopoly by Southam on the records requested by the appellant has the twin effects of creating an "information elite" composed of those members of the public who can afford the fees charged by the company, and of running counter to the legislative intent of allowing free access to the records at issue by the general public upon request during normal business hours.

I do not accept the appellant's position. In Order P-496, former Commissioner Wright was dealing with access to general records of the government, not personal information. His concerns regarding the need to maintain a transparent and readily accessible system of access to government records is critically important to the underlying values of government accountability inherent in any freedom of information scheme. However, very different principles apply to personal information held by government bodies, where governments have a statutory obligation "to protect the privacy of individuals with respect to personal information about themselves held by institutions ..." (section 1(b) of the Act).

The appellant also mistakenly characterizes the contractual arrangements between Southam and the College as somehow involving the Ministry. It clearly does not.

In my view, any public interest in disclosure of the personal information at issue in this appeal has been addressed by the Legislature through the establishment of the collection, disclosure and access provisions of the HPPC and the Regulation. The appellant has not persuaded me that

disclosure outside this legislative scheme is necessary in order to address public interest considerations. In my view, the appellant has nothing more than a private interest in obtaining bulk access to this personal information, which clearly is insufficient to trigger the requirements of section 23.

I find that the requirements of section 23 have not been established in the circumstances of this appeal.

Because of my findings under sections 21(1) and 23, it is not necessary for me to consider the application of section 17(1) or the Ministry's fee estimate.

ORDER:

I uphold the Ministry's decision not to disclose the record.

Original signed by: December 30, 1998
Tom Mitchinson
Assistant Commissioner