Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-3571

Appeal PA15-24

Ministry of Community and Social Services

January 28, 2016

Summary: The ministry received a correction request from the appellant requesting that the ministry correct a 2010 form located in the appellant's ODSP file, and also that the ministry attach certain OHIP records to the appellant's 2000-2003 ODSP files. The ministry denied the requests, but indicated that statements of disagreement could be attached to the appellant's files. The appellant appealed the decision, and during mediation identified additional corrections, which the ministry denied on the basis that they fell outside the scope of this appeal. In this order, I find that the additional correction requests fall outside the scope of this appeal. I also uphold the ministry's decision to deny the two correction requests.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 47(2).

Orders and Investigation Reports Considered: Orders MO-1700, MO-2354 and MO-2526.

OVERVIEW:

[1] The Ministry of Community and Social Services (the ministry) administers the Ontario Disability Support Program (ODSP) in accordance with the *Ontario Disability Support Program Act, 1997* (ODSPA). The ODSPA governs the provision of social assistance payments or income support to eligible Ontario residents. As well, basic financial assistance and employment assistance may be provided through the Ontario Works (OW) program under the *Ontario Works Act, 1997* (OWA). Prior to the implementation of the ODSPA and the OWA, social and other financial assistance could be provided under the *Family Benefits Act* (FBA) and the *General Welfare Assistance Act* (GWA).

[2] The ministry received a correction request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) related to the appellant's ODSP file and his receipt of benefits under the ODSPA and the former FBA. In his request that certain corrections be made, the requester asked that a record be corrected to show that he was a "former" OW (GWA) and ODSP client. He also requested that his personal health claims history under the Ontario Health Insurance Plan (OHIP) be attached to his ministry/ODSP files for the period of 2000 to 2003.

[3] In his request letter, the appellant contended that the benefits received by another individual with the same name were applied to his records when he was not the recipient, and that he wanted the records of his claim history to reflect this correction. The appellant identified the record that he wanted to have corrected – a ministry application form entitled "Application for assistance under the [OWA], Income Support under the [ODSPA]", signed and dated May 17, 2010. The requester also provided the ministry with a copy of his personal health claims history that he wanted attached to his ODSP file.

[4] In response, the ministry clarified with the appellant that his correction request was for the following:

> … correction of my personal information in regards to the enclosed copy of the application dated: (May 17, 2010). The application should be corrected to show that I was a 'former' O/W (GWA) and ODSP client…
>
> … I request that the [OHIP] (personal health claims history) be attached to my [ODSP] files for the applicable years from (2000 to 2003).

[5] The ministry then stated that it was denying the requested corrections.

[6] With respect to the request to correct the May 17, 2010 application, the ministry indicated that the application form was generated by the Service Delivery Model Technology (SDMT) software which the ministry had previously used for the administration of the ODSP and OW. It stated that this software was no longer used by the ministry, and had been placed in a "read-only" state. The ministry stated that it was unable to edit the information stored in this software, but that the appellant could submit a statement of disagreement, which would be attached to the file.

[7] Regarding the requester's OHIP claims history, the ministry advised that it "would not have the authority to retain this document as it is not, and would not be, relevant or applicable to your ODSP file." The ministry indicated that the appellant could submit a statement of disagreement letter to the ministry, indicating his belief that his claims history should be part of his ODSP file. The ministry stated that it would add such a statement to the appellant's terminated ODSP file.

[8] The appellant appealed the ministry's decision to this office.

[9] During mediation, the ministry confirmed its position. It also provided the mediator with a copy of a document that it intended to include in the appellant's hard copy ODSP file, which briefly sets out the history of the appellant's participation in the ODSP program and the former FBA program.

[10] The appellant was not satisfied with the option to have a statement of disagreement attached to his file.

[11] Also during mediation the appellant, through the mediator, requested that the ministry make two additional corrections to his files, relating to certain specific overpayment recovery funds and deductions made by the ministry. The ministry took the position that these correction requests were not part of the appellant's initial correction request and fell outside the scope of this appeal. As a result, the scope of the correction request was raised as an issue in this appeal.

[12] Mediation did not resolve this appeal, and this file was transferred to the inquiry stage of the process, where an adjudicator conducts an inquiry under the *Act*. I sent a Notice of Inquiry to the ministry, initially, and the ministry provided representations in response. I then sent a Notice of Inquiry to the appellant along with a copy of the ministry's complete representations, inviting the appellant's response to the issues and the ministry's representations. The appellant was also invited to identify any additional issues which he believed were relevant to the appeal. The appellant provided representations in response, and also raised a number of additional issues, some of which I address below.

[13] In this order, I find that the additional correction requests fall outside the scope of this appeal. I also uphold the ministry's decision to deny the two correction requests.

RECORDS:

[14] The record for which a specific correction is sought is a ministry application form entitled "Application for assistance under the [OWA], Income Support under the [ODSPA]", signed and dated May 17, 2010.

ISSUES:

A. What is the scope of the correction request?

B. Should the ministry correct personal information under section 47(2)?

DISCUSSION:

Issue A: What is the scope of the correction request?

[15] As noted above, during mediation the appellant, through the mediator, requested that the ministry make two additional corrections to his files, relating to certain specific overpayment recovery funds and deductions made by the ministry. Specifically, the appellant asked that the ministry make the following additional corrections to his files:

1) That the overpayment recovery of $2681.58 was for funds paid under both the FBA and ODSP; and

2) Confirmation that ODSP erred in deducting $436 from his overpayment of $2681.58, as taxable income.

[16] The ministry took the position that these correction requests were not part of the appellant's initial correction request resulting in this appeal and that they fell outside the scope of this appeal. In its representations, the ministry maintained its position, and stated that these additional requests constitute new correction requests which must be made to the ministry before this office has jurisdiction to review them.

[17] The ministry also takes the position that these additional requests are not actually requests to "correct" records for the purpose of the *Act* and are, in fact, requests for substantive relief.

[18] The appellant provides lengthy representations in support of his position that these additional corrections are or should be included in this appeal. In brief, the appellant takes the position that this current appeal arises from an earlier request and appeal made by him to the ministry which resulted in a mediated settlement. The appellant refers in considerable detail to the mediated settlement and his understanding of the results of that mediation, and argues that the ministry, in taking the position it does, is violating and contradicting the settlement agreement.

Analysis and findings

[19] I have reviewed the appellant's representations in detail. I accept his position that the initial correction requests made to the ministry giving rise to this appeal appear to have resulted from the mediated settlement of the earlier appeal involving the appellant and the ministry. I also acknowledge that, in the earlier appeal, some reference was made to certain discrepancies in certain payments made. However, the appellant does not identify whether these two additional requests for correction were made directly to the ministry, nor how or why these new requests submitted to the mediator (and then conveyed by the mediator to the ministry) should be dealt with in this appeal without the appellant first submitting them formally to the ministry.

[20] An appellant must first ask the institution to correct the information before this office will consider whether the correction should be made, as this office can only deal with an appeal from an institution's decision to deny a correction request – there must first be a formal request and decision under the *Act*.[1] In the circumstances of this appeal, I find that the appellant has not provided sufficient evidence to satisfy me that he made the two additional correction requests to the ministry before raising them during the mediation of this appeal. As a result, I find that the two additional requests fall outside the scope of this appeal, and I will not address them further in this order.

CORRECTION OF PERSONAL INFORMATION

Issue B: Should the ministry correct personal information under section 47(2)?

[21] In this appeal, there is no dispute that the information the appellant seeks to correct constitutes his personal information for the purpose of the *Act*, as it "relates to the administration of the appellant's social assistance file."

[22] Section 47(1) gives an individual a general right of access to his or her own personal information held by an institution. Section 47(2) gives the individual a right to ask the institution to correct the personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of disagreement to the information. Sections 47(2)(a) and (b) state:

> Every individual who is given access under subsection (1) to personal information is entitled to,
>
> (a) request correction of the personal information where the individual believes there is an error or omission therein;
>
> (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made;

[23] This office has previously established that in order for an institution to grant a request for correction, the following three requirements must be met:

1. the information at issue must be personal and private information; and
2. the information must be inexact, incomplete or ambiguous; and
3. the correction cannot be a substitution of opinion.[2]

[24] In each case, the appropriate method for correcting personal information should

---

[1] See Order MO-2005.
[2] Orders 186 and P-382.

be determined by taking into account the nature of the record, the method indicated by the requester, if any, and the most practical and reasonable method in the circumstances.[3]

[25] I will now review the two correction requests.

Request to correct the application form dated May 17, 2010

[26] As noted above, in response to the appellant's request to correct the May 17, 2010 application, the ministry initially referred to its inability to correct certain information because of the changes made to its software systems.[4] In its representations, the ministry takes a somewhat different position, arguing that the requested correction does not relate to information that is inexact, incomplete or ambiguous, or, alternatively, that it is reasonable to refuse to grant the correction request given the nature of the record and its role in the administration of social assistance.

[27] In support of its position that it is reasonable to refuse to grant the correction request given the nature of the record and its role in the administration of social assistance, the ministry states that the record is a statutory declaration in which the applicant was asked to solemnly declare that the information is true. The ministry notes that:

- The record is signed by the appellant and declared before a commissioner of oaths.
- The record indicates that the appellant has been interviewed by a representative of the Director of the ODSP, and that he has supplied the information in the application to the best of his knowledge or belief and that the statements are true.
- The record indicates that the appellant makes the declaration believing it to be true and knowing that it has the same force and effect as if made under oath by virtue of the *Canada Evidence Act* (see section 41).

[28] The ministry then states:

> These elements of the statutory declaration underline the importance of the collection of accurate information by the Director of the ODSP and her delegates; this information is used to assess an applicant's initial or a recipient's ongoing eligibility for social assistance benefits. The ministry submits that the correction request requires the amending of a statutory

---

[3] Orders P-448, MO-2250 and PO-2549.
[4] I review this issue briefly below.

> declaration without additional evidence given under oath, making it unreasonable to make the correction as requested.
>
> Further, the information that is collected through statutory declarations is used to make decisions under the [ODSPA] relating to eligibility for or the amount of income support payable to a recipient under the [ODSPA]. Such a decision can be appealed to the [Social Benefits Tribunal] and such sworn documents would form an integral part of the record before the Tribunal. Decisions of the Tribunal are further subject to appeal to the Divisional Court. This record is, therefore, integral to ministry decision making and subsequent adjudication of that decision making.
>
> The ministry submits that, as a statutory declaration, the record sets out facts within the knowledge of the deponent at a specific period in time and therefore the ministry should have the discretion to refuse to make the requested correction, such that the ministry is able to maintain the integrity of a sworn document. The administration of social assistance involves the continual monitoring of an individual's eligibility. This is reflected by s. 1(d) of the ODSPA, that the ODSP is to be accountable to the taxpayers of Ontario. It is therefore instrumental to the administration of the program that the ministry be able to maintain a clear record of what information has been provided to it at what times, so that eligibility for social assistance can be continually assessed and re-assessed as necessary. Caution should be had to the possibility of using the correction provisions under [the *Act*] as a manner of attempting to retroactively amend information that was significant to a determination of eligibility under the [ODSPA].

[29] With respect to the ministry's position that the information requested to be corrected is not inexact, incomplete or ambiguous, the ministry states:

> The appellant's concern appears to arise from the fact that the box indicating previous applications for social assistance is not checked off. The ministry submits that the fact that the box was not checked off indicating a previous application for social assistance does not mean that the information is inexact, incomplete or ambiguous within the context of the record. Firstly, the ministry notes that neither of the boxes is checked off; the record is simply silent on the issue. Further, the ministry notes that under "Categories under which application is being made", the following is indicated: FBA – Grandparented. This notation, as will be explained, makes it clear that the appellant was previously in receipt of benefits under the FBA.
>
> The concept of being "grandparented", is a reference to s. 3(1) of the ODSPA read in conjunction with paragraphs 1 and 1.1 of subsection 4(1)

> of regulation 222/98, as well as section 20 (see also ODSP policy directives 1.2 and 1.3). The result of these provisions is that certain individuals were exempt from disability adjudication (e.g. the process by which the Director of the ODSP determines whether an individual is a "person with a disability" within the meaning of section 4 of the ODSPA). ODSP Policy directive 1.2 states that (at page 6):
>
> > Applicants who are members of a prescribed class do not require disability adjudication and are granted ODSP income support if they are found to be financially eligible. Members of a prescribed class include: …
> >
> > > A person who on May 31, 1998 was a recipient or spouse of a recipient of benefits under specific case classes under FBA;
>
> Therefore, it is clear that at the time of the application, it was understood that the appellant had previously been in receipt of social assistance under the FBA program. The FBA application would be the only previous application as per the appellant's social assistance history outlined in the letter of February 19, 2015 that has been placed in the appellant's social assistance file. Therefore, the ministry submits that the information is not inexact, incomplete or ambiguous.

[30] The ministry's representations were shared with the appellant. In response, the appellant provides extensive representations which focus on the following concerns:

- that the ministry takes the position, set out in its decision letter, that the document is in a "read only" format;[5]
- that the ministry is relying in its decision letter on its inability to make changes to information in the previous software system, and that this previous system was only implemented in 2003;
- that the ministry failed to acknowledge that the correction of records related to the years 1978 (GWA), 1992-2003 (FBA/ODSP), and 2010 (ODSP);
- that the ministry improperly narrowed the scope of his correction request;
- that the ministry did not properly apply the legislation and/or regulations governing the administration of benefits under the GWA, FBA and ODSP programs relating to the years 1978, 1992-2003 and 2010; and

[5] As noted, I address this issue briefly below.

- that the ministry failed to apply the proper procedures at the mediation stage.

Decision and analysis

[31] On my review of the material provided by the parties, I accept that the document which the appellant is asking be corrected – the application form dated May 17, 2010 – is a statutory declaration signed by the appellant and declared before a commissioner of oaths. In this document, the appellant affirms that he has been interviewed by a representative of the Director of the ODSP, that he has supplied the information in the application to best of his knowledge or belief, and that the statements are true. The record also confirms that the appellant made the declaration believing it to be true and knowing that it has the same force and effect as if made under oath by virtue of the *Canada Evidence Act*.

[32] In Order MO-2526, I considered a request by an appellant to correct a sworn statement the appellant had made and signed approximately seven years before the correction request. I concluded:

> Given the circumstances of this appeal, including the fact that the record the appellant seeks to have "corrected" is a sworn statement made by her in the past, I find that the City's decision to deny the correction request ought to be upheld. In my view, this is a situation where it is not necessary to make a conclusive determination on whether information is "inexact, incomplete or ambiguous"; rather, on my review of the circumstances of the appeal (including the requested correction, the nature of the record, and the impact of allowing the requested correction), I find that this is a situation where the City's exercise of discretion appears reasonable, and the attachment of a statement of disagreement is a sufficient response to a dispute about the correctness of a record. In this appeal the appellant is essentially seeking to significantly revise a sworn statement made by her in 2003 and witnessed by a commissioner of oaths. In the circumstances, I find that a more appropriate tool for the appellant would be to request that a statement of disagreement, found in section [47(2)(b)] of the *Act*, be added to the previously sworn statement. Accordingly, I find that the City's denial of the appellant's correction request should be upheld.

[33] I adopt this reasoning for the purposes of this appeal. The appellant is seeking to have "corrected" a sworn statement made by him in 2010. The ministry has identified the reasons why the form is completed and purposes for which the form is used. It also identifies the reasons why the form is required to be sworn to by the applicant. In these circumstances, I uphold the ministry's decision to deny the correction request. As in Order MO-2526, this is not a situation where it is necessary to make a conclusive determination on whether information is "inexact, incomplete or ambiguous"; rather, on

my review of the circumstances of the appeal (including the requested correction, the nature of the record, and the impact of allowing the requested correction), this is a case where the ministry's exercise of discretion appears reasonable, and the attachment of a statement of disagreement under section 47(2)(b) is a sufficient response to a dispute about the correctness of a record. As a result, I find that the ministry's denial of the appellant's correction request should be upheld.

[34] Before leaving this issue, I want to briefly comment on the issue raised in the ministry's decision that the correction could not be made to the record because certain records are now in a "read only" format. During this appeal I asked the ministry to provide information about its referenced decision to replace the earlier SDMT system with the newer Social Assistance Management System (SAMS), resulting in a read-only format that could not be edited. I also asked the ministry to identify which records were transferred under this process, why the records are retained in this manner, and whether consideration was given to the obligations under the *Act*, including the obligations under section 47, when the decision was made to transfer the records in this way.

[35] As noted above, in its representations the ministry no longer relies on the software migration as a reason not to make the corrected changes. In addition to confirming that the record requested to be corrected is actually a hard-copy sworn statement, it also clarified its positon regarding the software system changes, and provided lengthy representations on this clarified positon. It reviews the nature of the migration to the new software system, and the information stored in it. The relevant points made by the ministry include:

- While SDMT is currently in a read-only mode, it can be edited.
- There is not a significant difference between SAMS and SDMT in terms of the information that can be edited by ministry staff.
- SDMT can still be modified, but this function has been removed from ODSP staff. In order to change the information contained in SDMT, after a determination that a change is warranted under section 47, such a request could be actioned by the ministry. It is not the case that the information contained in SDMT can never be edited.
- The ministry is therefore able to comply with its section 47 obligations under the *Act*.
- In any event, the migration of information from SDMT to SAMS is of little relevance to this appeal, given the ministry's prior submissions on the issue.

[36] In light of this information provided by the ministry, I will not address this issue further in this order.

Request to attach the appellant's OHIP claims history

[37] As noted above, the second part of the appellant's correction request read as follows:

> … I request that the [OHIP] (personal health claims history) be attached to my [ODSP] files for the applicable years from (2000 to 2003).

[38] In response to this request, the ministry advised that it "would not have the authority to retain this document as it is not, and would not be, relevant or applicable to your ODSP file." The ministry indicated that the appellant could submit a statement of disagreement letter to the ministry, indicating his belief that his claims history should be part of his ODSP file. The ministry stated that it would add such a statement to the appellant's terminated ODSP file.

[39] In its representations supporting its position, the ministry states:

> … this request is outside the scope of the correction provisions of the *Act*, and … the ministry cannot be compelled to collect personal information that it does not require for the purpose of administering the ODSP.
>
> The IPC has previously found similar requests to be outside of the scope of the correction provisions under the *Act*. In MO-2354, the appellant requested that her son's Individual Education Plan (IEP) be amended to include a report prepared by a specific doctor concerning an evaluation of her son. Adjudicator Hale held that:
>
> > In my view, the correction provisions contained in [the equivalent to section 47(2)] are not intended to address situations where an appellant seeks the inclusion of information into a record, as opposed to the usual case where the information existing in a record is said to be "inexact, incomplete or ambiguous" and requires correction. I agree with the Board that the creator of the record has the discretion to include or not include any information in the IEP document, with the proviso that it not be "inexact, incomplete or ambiguous", and therefore subject to the correction provisions in [section 47(2)].
> >
> > Accordingly, I dismiss this part of the appeal. Requiring an institution to include information in a record, as opposed to correcting existing information in a record, is not contemplated by the correction provisions in [section 47(2)] and I am unable to order such a remedy under that section.

[40] The ministry then submits that the approach taken in Order MO-2354 should apply to this request. It states that the appellant is not requesting that information

contained in a record be corrected because it is "inexact, incomplete or ambiguous", rather, the appellant is requesting that the institution include the information as part of the appellant's ODSP file. Accordingly, the ministry submits that the IPC is unable to order the remedy requested by the appellant.

[41] The appellant does not address this specific issue, but is clearly not satisfied with the ministry's position on this correction request.

Decision and analysis

[42] I have reviewed the appellant's specific request to have his OHIP information attached to his ODSP file for certain years. I have also considered the ministry's position that this is not a request that information be corrected because it is "inexact, incomplete or ambiguous", but rather a request that the ministry include certain information as part of the appellant's ODSP file. I have also reviewed Order MO-2354 referenced by the ministry, as well as Order MO-1700 in which I reviewed in some detail the approach to take in considering the obligations of an institution under the municipal equivalent of section 47(2)(b). In that order, the requester had asked that an 8-page statement of disagreement be attached to his file. In addition, the requester wanted a 13-page appendix attached to the file. In finding that the institution was not required to attach the 13-page appendix to the file, I stated:

> In my view, [section 47(2)(b)] clearly sets out what is to be included in a statement of disagreement and what an individual can require an institution to attach to identified information. Specifically – a requester may require an institution to attach a statement of disagreement to the information reflecting any correction requested by the requester but not made by the institution.
>
> I therefore do not agree with the appellant's statement that, because the appendix contains information that is relevant to the errors he believes exist in the records, he can require that this appendix form part of his statement of disagreement. The determination as to what constitutes a statement of disagreement is not based on whether the information is "relevant" to the records, rather, the issue to be decided is whether the statement of disagreement reflects any correction requested by the requester but not made by the institution.

[43] I then found that the institution's decision to attach the 8-page statement of disagreement, but not the 13-page appendix, was appropriate. The 8-page statement identified the specific information which the appellant wanted corrected. The 13-page appendix was primarily supporting documentation for the 8-page statement of disagreement, and could not reasonably be construed as reflecting any correction that was requested but not made. I also noted, however, that although the requirement to attach a statement of disagreement to the records under section 47(2)(b) is restricted

to information reflecting any correction requested by the requester but not made by the institution, there is nothing in that section prohibiting the institution from attaching other types of material to a statement of disagreement. Section 47(2)(b) simply does not require the institution to do so.

[44] I adopt the approach taken in Orders MO-2354 and MO-1700 and apply it to the circumstances in this appeal. As a result, I find that the ministry is not required under section 47(2)(b) to attach the appellant's OHIP information to his ODSP files.

[45] I do note, however, that in its decision letter issued to the appellant the ministry stated:

> You may wish to submit a Statement of Disagreement letter to the Ministry, which can be added to your terminated ODSP file. This letter could make clear that you believe the personal health claims history should be part of your file.

[46] In the circumstances, I uphold the ministry's decision not to attach the appellant's OHIP information to his ODSP files.

Additional issues

Appellant's request to vary the adjudication process

[47] During this inquiry, and after submitting his representations, the appellant submitted a "reconsideration request" seeking a reconsideration of the decision to allow this appeal "to go forward under strained circumstances". Shortly after this reconsideration request, the appellant also requested a "stay". The appellant provides lengthy representations in support of his requests. In my view, the appellant's requests effectively ask me to vary the process of this appeal under section 20 of this office's Code of Procedure.

[48] The basis for the appellant's request is his contention that the ministry has violated the settlement agreement reached in an earlier appeal (referred to above) "to consider the FIPPA appeal based upon [ministry] files I had already received under previous FIPPA requests." The appellant also identifies his concern that, in its representations, the ministry implicitly raised (but did not pursue) a procedural issue under section 47 regarding the appellant's initial correction requests in this appeal. In addition, the appellant takes issue with a change made to the Notice of Inquiry sent to him.

[49] The appellant's position is that, by allowing the ministry to make the submissions it has, this appeal has proceeded under "strained circumstances". He contends that by proceeding, this appeal is "supportive of the ministry". He also submits that this office and the ministry were negligent in "not following through on information" he had provided from the earlier appeal and that this current appeal has not been addressed

"in a fair and unbiased manner".

[50] I have considered the appellant's position, and am not satisfied that this appeal should not proceed. The "Amended Mediator's Report" in this appeal, sent to both parties, sets out the results of mediation and the issues remaining in dispute. The issues remaining in dispute were "Scope of the request" and "Correction", and both the ministry and the appellant were invited to respond to these same issues during the inquiry as detailed in respective Notices of Inquiry. The appellant was therefore fully informed of what the issues on appeal were.

[51] During the inquiry stage of the process, the appellant was given the opportunity to provide representations on all of the issues, was provided with a complete copy of the ministry's representations and given the opportunity to respond to them, and was also invited to raise any additional issues. The minor correction to the Notice of Inquiry provided to the appellant was made by me and references a corrected section number, and the appellant was invited to address the issues with reference to the correct number.

[52] In the circumstances, I am not satisfied that there is any unfairness in the manner in which this appeal has gone forward. I also find that there is nothing unfair or "discriminatory" in the way the issues have been framed and provided to the appellant in this inquiry, and I deny the appellant's request to vary the process.

[53] I note, however, that the appellant's "reconsideration" submissions contain representations which address the issues in this appeal, and I have taken these representations into account in making my findings in this order.

Appellant's "Notice of Constitutional Question"

[54] The appellant's representations in response to the Notice of Inquiry, as well as written representations he made during mediation, were each framed as a "Notice of Constitutional Question" (NCQ). The appellant identifies that the rationale for framing each of his submissions in this form included that he intended to question "the constitutional validity or applicability of the ministry's practices and responsibilities which are regulated by [the FBA, the ODSPA and the GWA]." The appellant contends that the ministry violated these Acts and states that its decision to deny the requested corrections (resulting in this appeal) confirms these alleged violations.

[55] The appellant also confirms that he forwarded copies of certain of his NCQ documents to the Attorneys General of Canada and Ontario. I was copied on a response letter sent to the appellant from the Ministry of the Attorney General for Ontario (AGO), dated August 24, 2015, acknowledging receipt of the appellant's NCQ. In that letter, the AGO confirms that it only received limited documents from the appellant and states that, these documents "only [allege] that the Ministry was not in compliance with governing legislation." The letter then states that the documents do not properly give

notice of a constitutional question as required by section 109 of the *Courts of Justice Act*, and that the AGO takes the position that there is no constitutional question properly before me.

[56] I have considered the material provided by the appellant and find that they do not raise a question about the constitutional validity or applicability of the *Act* or any other legislation, nor do they claim a remedy under the *Canadian Charter of Rights and Freedoms*. Rather, as the appellant himself indicates, his NCQs contain his "legal argument against the Ministry", and question "the validity or applicability of the Ministry's use of their legislation" and the ministry's handling of his correction request. In effect, they constitute his representations on the issues in this appeal.

[57] I further find that the issues in this appeal do not raise any constitutional question or *Charter* issue, and will not address this further. However, the appellant's NCQs contain submissions which are relevant to the issues in this appeal, and I have considered these in making my findings in this order.

ORDER:

I uphold ministry's decision, and dismiss this appeal.

Original Signed by: January 28, 2016

Frank DeVries
Senior Adjudicator