



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

INVESTIGATION REPORT

INVESTIGATION I96-016P

THE MINISTRY OF COMMUNITY AND SOCIAL SERVICES

August 16, 1996



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Ministry of Community and Social Services (the Ministry). The complainant is a former employee of an agency providing shelter and services for women (the Agency). The Ministry gives majority funding to the Agency, and supervises its operations.

The complainant stated that during the time she worked for the Agency, she and many of her co-workers had significant concerns about its operations. In July, 1994, the complainant, together with co-workers and former co-workers, met with the Ministry to express their concerns. The complainant contended that the Ministry was aware of longstanding complaints about the Agency, and in order to back up its pending negative review of the Agency, encouraged them to set out their specific concerns in writing, which they did. The complainant and nine others (the signatories) signed the letter.

The complainant stated that shortly thereafter, the Ministry conducted its review of the Agency during which the letter was disclosed to a member of the Agency's Board of Directors. She stated that this Board member subsequently attached the letter to the Ministry's review, and distributed copies of it to other members, Agency staff, other similar Agencies in the community, and to a local newspaper. The complainant further stated that the signatories' names, including her own, were subsequently published in the newspaper.

The complainant stated that the signatories later experienced harassment at the Agency and that the Ministry had to issue a "no harassment" directive to the Agency. The complainant also believed that the Ministry's disclosure to the Agency eventually led to the loss of some signatories' jobs, including her own.

The complainant stated that since neither she nor the other signatories consented to the Ministry's release of the letter to the Agency, the Ministry's disclosure was not in compliance with the Freedom of Information and Protection of Privacy Act (the Act).

The Agency is not an "institution" under the Act. Therefore, this report will deal only with the Ministry's disclosure to the Agency.

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 in compliance with section 42 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 defines “personal information” as recorded information about an identifiable individual, including,

- (e) the personal opinions or views of the individual except if they relate to another individual,

The information in the letter contained the opinions and views of the complainant and the other signatories about the operations of the Agency. It is our view that this information met the requirements of paragraph (e) 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 in compliance with section 42 of the Act?

The Ministry confirmed that during the time the complainant was employed by the Agency, she and other co-workers and ex-staff members had had significant concerns about the operation of the Agency and that they had met with the Ministry on July 15, 1994 to discuss these concerns. However, the Ministry indicated that prior to this meeting, it had taken steps to address concerns about the Agency. The Ministry stated that in April 1992, consultants had prepared a report for the Ministry and that in September 1993, the Ministry had begun a review to determine if there had been adequate resolution of the issues identified in the consultants’ report.

After their meeting with the Ministry, the complainant and nine other staff and ex-staff members had set out their concerns in a letter dated July 18, 1994. In their letter, they had also asked the Ministry to address the problems they had raised and to report back to them on actions taken in response to the issues.

The Ministry stated that it had later released its status review to the Board of the Agency, together with the letter in question. The Ministry stated that the Agency had then made the documents public. The Ministry advised that as a result of its review, two programs at the Agency had been closed.

The Ministry took the position that the signatories had understood that their letter could be shared with the Agency when the Ministry released its status review to it. The Ministry believed that the signatories had “wished their letter to confirm and substantiate the issues discussed in the status review.”

The Ministry further stated that “a note on the letter adds to the understanding that the ministry could share the information with the agency.” The note, apparently written by one of the signatories said, “There are four other women who agree with or support the letter.” However, the note also stated that “Their names are available to the ministry but to no one else.”

The Ministry submitted that it had disclosed the letter for the same purpose for which it was obtained, that is, to bring the signatories’ concerns to the attention of the Agency, in order to resolve the issues, in compliance with section 42(c) of the Act.

42(c) of the Act states that:

An institution shall not disclose personal information in its custody or under its control except,

...

(c) for the purpose for which **it was obtained or compiled** or for a consistent purpose; (emphasis added)

It was the complainant’s view that the Ministry had received similar complaints in the past (where the complainants had been afraid to provide their names) and that at their meeting with the Ministry, she and the other signatories had been encouraged to set out their concerns in writing to assist the Ministry’s review of the Agency.

The complainant maintained that she and the other signatories did not sign a consent for the Ministry to disclose the letter to the Agency, and that no-one expected it to become public information, as it did. In a letter to the complainant dated October 31, 1995 (from the program supervisor) the Ministry acknowledged that “ the Ministry and the signatories of the letter left a meeting of July 15, 1994 with a different perception regarding the use of the information shared by you and others.”

In our view, the Ministry would have obtained the complainant’s personal information in order for the Ministry to deal with the serious questions she (and others) had raised about the policies and practices of the Agency. Since the Agency’s Board would have been responsible for overseeing the Agency’s operations, it would follow that in its review, the Ministry would have wanted to bring these concerns to the Board’s attention.

However, in our view, the concerns outlined in the letter were about the operations of the Agency, of a general and systemic nature, and therefore, the signatories’ concerns could have been brought to the attention of the Board without the disclosure of any names. If the Ministry wanted to include the letter as part of its review, the names of the signatories could have been severed before its release since severing the names would not have prevented the Ministry and the Board from dealing with the issues that had been raised. In our view, since it was not necessary for the Ministry to disclose the name of the complainant in order to bring her concerns to the attention of the Board in order for the Ministry and the Board to resolve her concerns, the Ministry’s disclosure to the Board of her personal information cannot be said to have been for

the same purpose for which it was obtained or compiled, in compliance with section 42(c) of the Act.

We have examined the remaining provisions of section 42 of the Act and it is our view that none applied to the Ministry's disclosure.

Conclusion: The complainant's personal information was not disclosed in compliance with section 42 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 not disclosed in compliance with section 42 of the Act.

RECOMMENDATIONS

We recommend that the Ministry takes steps to ensure that personal information is not disclosed except in compliance with the Act, for example, in future, in similar circumstances, the Ministry should obtain written consent from the individual(s) concerned or sever any personal identifiers before disclosure.

Within six months of receiving this report, the Ministry should provide the Office of the Information and Privacy Commissioner with proof of compliance with the above recommendation.

Original Signed By: _____
Susan Anthistle
Compliance Review Officer

August 16, 1996
Date
