

NUNAVUT INFORMATION AND PRIVACY COMMISSIONER

Review Recommendation 12-056
March 22, 2012

Review File: 11-195-5

BACKGROUND

This Request for Review comes from an individual who was briefly employed with the Department of Justice. The individual (who will be referred to in this report as A.B. for ease of reference) felt that his personal privacy had been breached. According to A.B., he had recently been “fired” by the Department of Justice. Some weeks later, he was having a conversation with an acquaintance. The acquaintance pointed to a man standing some distance away and asked if A.B. knew him. When A.B. indicated that he didn’t know the individual, the acquaintance commented that the stranger had told him both A.B.’s name and the fact that he had been “fired” from his job with the Department of Justice. A.B. was very surprised because he did not remember telling anybody that he had been “fired”. A.B. came to the conclusion that the stranger had some kind of relationship with A.B.’s former manager and surmised that the manager must have improperly disclosed A.B.’s personal information.

I asked the public body to investigate the allegations made and provide me with their report and explanation.

THE PUBLIC BODY’S RESPONSE

The public body made a number of inquiries. They advised that A.B. had been a casual employee and that his contract had not been renewed because of concerns about his qualifications for the position. They further advised that, when asked directly, A.B.’s supervisor denied having ever discussed A.B. or his employment situation with any person outside of the workplace.

In their response, the Department also outlined the policies and safeguards in place to ensure that personal (and other) information obtained in the course of employment is not improperly used or disclosed. In particular, they pointed to the following safeguards:

- a) the Government of Nunavut Code of Conduct which prohibits employees from taking advantage of, or benefitting from, confidential information gained as a result of their official duties. It also restricts employees from releasing confidential information unless authorized to do so. They point out that all GN employees are bound by the code.
- b) the Oath of Office and Secrecy which every GN employee is required to take upon being employed and to abide by. The oath is intended to ensure that employees know and understand that “the release of confidential information that employees have access to through the course of their employment may have a significant impact on the Government’s ability to manage its affairs and to be seen as an impartial and credible organization by clients and the public”. The oath itself states:

I swear or solemnly affirm that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the public service of Nunavut and that I will not, without due authority, disclose or make known any matter that comes to my knowledge by reason of such employment.
- c) the division itself also has its own additional Code of Ethics which requires employees to properly safeguard all documents, reports, directives, manuals and other information. This Code of Ethics is posted in the work site.

- d) the Department of Human Resources holds regular orientation sessions for new GN employees, which include an introduction to the *Access to Information and Protection of Privacy Act*.

DISCUSSION

There is no way to confirm with any degree of certainty that A.B.'s manager/supervisor disclosed any information about A.B. There is some reason to believe that A.B.'s supervisor and the stranger were acquainted, perhaps even that they spent a lot of time together. This in and of itself, however, is simply not enough to verify that A.B.'s personal information was, in fact, disclosed by someone within the workplace, let alone by the supervisor. All we have is a second hand rendition of a statement alleged to have been made to A.B. Even if we accept that the only way that anyone could have known that A.B. was "fired" is if someone from the workplace said something, there is no way to confirm or verify where the information came from in the absence of a confession or a direct witness. While one might reasonably surmise that the supervisor in fact was the source of the disclosure, notwithstanding his denial, there is no way to verify it with any degree of certainty. I cannot, therefore, conclude that A.B.'s supervisor, or in fact any other person within the work place, improperly disclosed information about his work status.

That said, although I cannot conclude that A.B.'s personal information was improperly disclosed, the complaint does provide me with the opportunity to remind public bodies about their responsibilities under the *Access to Information and Protection of Privacy Act*. While I appreciate that there a lot of policies in place with respect to the protection of privacy, policies alone are not sufficient. Oaths alone are not sufficient. What is needed in order to ensure ongoing respect for the need to prevent inappropriate uses and disclosure of personal information is ongoing and consistent messaging and positive reinforcement. I think that most GN employees appreciate and understand the requirement not to disclose the personal information of third parties. However, the need to protect the personal information of employees is more often

forgotten. It is not unusual for employees in the same office to talk about each other. Sometimes those discussions go outside the workplace. The communities in Nunavut are small places. Once the information gets out, it won't take long for it to be widely known. It is human nature to talk about things that happen to us, around us and about people around us. It is important, therefore, that all public bodies are vigilant in reminding employees, again and again, that privacy rules and policies apply not only to third parties who use government services, but also to fellow employees. I note that none of the policies outlined by the public body in any way refer to either personal information or to employees. Perhaps it would be appropriate to review these policies and include a reference in each case to the specific duty to protect the personal information of individuals, including fellow employees. My only recommendation, therefore, would be that there be a review of the GN and Department of Justice policies and the Oath of Office to include specific reference to the requirement to protect, in particular, the personal information of individuals, including GN employees. In addition, there must be ongoing and repeated reminders about this obligation and the possible consequences of improper disclosure.

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