

Issues

[4] The issues in this review are:

- a. Should this Review Report be public?
- b. Was there a breach of the Complainant's privacy?

Facts relevant to the first issue

[5] Health notified this office of a possible privacy breach. The allegation was that two Health employees (EMP1 and EMP2) viewed the Complainant's medical records without authorization. Later, the Complainant filed a privacy breach complaint covering the same subject-matter.

[6] This office's investigation is complete and a Review Report is ready for publication.

Law on the first issue

[7] In *Department of Justice (Re)*, 2021 NUPC 28 (CanLII) at paragraphs 8 to 11, I set out the law about publication of my Review Reports. I adopt that statement of the law for purposes of this decision.

[8] In brief: There is a strong presumption in favour of openness. There is a "high bar" for any exceptions.

Analysis of the first issue

[9] In this case, I find that the "high bar" for withholding a public decision has been met. The facts of the case contain so much personal information, and are so unique to this Complainant, that making this Review Report fully public would be equivalent to releasing the Complainant's personal medical information.

[10] I can, however, release my conclusion on the second issue and the recommendations that flow from that conclusion.

[11] Appendix A to this Review Report deals with the complaint against the first Health employee (EMP1). It will be made available only to Health, the Complainant, and EMP1.

[12] Appendix B to this Review Report deals with the complaint against the second Health employee (EMP2). It will be made available only to Health, the Complainant, and EMP2.

Conclusion

[13] Appendix A and Appendix B of this Review Report should not be public.

[14] There was no breach of the Complainant's privacy.

Recommendations

[15] **I recommend** that Health confirm to EMP1, in writing, that Health accepts that EMP1 did not breach the Complainant's privacy.

[16] **I recommend** that Health confirm to EMP2, in writing, that Health accepts that EMP2 did not breach the Complainant's privacy.

Graham Steele

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