

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2014-36

September 3, 2014

ALBERTA HEALTH

Case File Number F7420

Office URL: www.oipc.ab.ca

Summary: An individual made an access request to Alberta Health (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (FOIP Act) for access to “all policies, past and present, in regards to the closing of health facilities.”

The Public Body provided eight pages of records to the Applicant, and withheld 44 pages in their entirety under section 24(1).

The Applicant requested a review of the Public Body’s decision. He argued that policies outline the process for making decisions on a particular matter, and do not contain information that can be withheld under section 24(1).

The Adjudicator determined that the records withheld by the Public Body under section 24(1) were not responsive to the Applicant’s request.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 24, 72.

I. BACKGROUND

[para 1] An individual made an access request to Alberta Health (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (FOIP Act) for access to “all policies, past and present, in regards to the closing of health facilities.” The Public Body provided eight

pages of records to the Applicant, and withheld 44 pages in their entirety under section 24(1). In its initial submission, the Public Body described these records as “draft internal correspondence and analysis.”

[para 2] The Applicant requested a review of the Public Body’s decision. The Applicant argued that policies outline the process for making decisions on a particular matter, and are therefore not advice, proposals, recommendations or a policy options.

II. RECORDS AT ISSUE

[para 3] The records at issue consist of 44 pages withheld in their entirety under section 24(1).

III. ISSUES

[para 4] The issues as set out in the Notice of Inquiry, dated May 30, 2014, are as follows:

- 1. Are the records withheld under section 24 (advice from officials) responsive to the Applicant’s request (all or in part)?**
- 2. Did the Public Body properly apply section 24(1)(a) and (b) to the information in the records?**

IV. DISCUSSION OF ISSUES

- 1. Are the records withheld under section 24 (advice from officials) responsive to the Applicant’s request (all or in part)?**

[para 5] In his Request for Review, with respect to the Public Body’s application of section 24(1) to the records at issue, the Applicant stated that:

Policies are not, in my opinion, advice, proposal, recommendation or a policy option. Policies outline exactly how decisions should be made, process-wise. Policies are not specific advice but general guidelines for decision makers.

[para 6] He further stated in his Request for Inquiry:

I’ve requested a general policy which is not specific to any particular case. It’s instruction on how to handle an issue in general.

...

Furthermore to section 24 applying, this policy must be considered to be advice, proposals, recommendations, analyses or policy options. It is not analysis because it does not contain factual information. It is not advice, because it is a policy, it is a ruling on how to do something, not advice on a specific case. Neither is a policy a proposal, recommendation or policy option. It is the process to follow once a decision has been made. My request was for policies related to closing health facilities.

[para 7] I added the above issue to the inquiry, regarding the responsiveness of the withheld records to the Applicant's request, based on these statements from the Applicant and my review of the records at issue. It seemed possible that the 44 pages of withheld records were not responsive to the Applicant's request.

[para 8] The Public Body did not address this issue in its initial submission.

[para 9] By letter dated July 25, 2014, I asked the Applicant to respond to the following:

The Public Body's initial submission describes the withheld records as "draft internal correspondence and analysis" (paragraph 4, page 4). Your Request for Inquiry indicates that you are seeking completed policies relating to the closing of health facilities. You state that a policy "is the process to follow once a decision has been made."

Are you seeking only policies that have been completed and are "in force", or does your request extend to draft documents that have not been completed and/or approved?

[para 10] The Applicant responded by email dated July 28, 2014. He stated:

As to the question, I'm only seeking completed policies. I'm not seeking drafts or analysis.

[para 11] Having reviewed the records at issue, I find that the Public Body's characterization of the records, as being draft internal correspondence and analysis, accurately reflects their contents. As the Applicant has clarified that he is seeking only completed policies, and not draft documents, I find that the records at issue are not responsive to his request.

[para 12] Given this finding, it is not necessary for me to determine whether the Public Body properly applied section 24(1) to the information in the records at issue.

V. ORDER

[para 13] I make this Order under section 72 of the Act.

[para 14] I find that the records at issue are not responsive to the Applicant's access request and therefore there is no need to address the Public Body's application of section 24(1) to the information in the records.

Amanda Swanek
Adjudicator