

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2020-04

March 5, 2020

ALBERTA HEALTH

Case File Number 000303

Office URL: www.oipc.ab.ca

Summary: On October 16, 2014, the Applicant made four separate access requests to Alberta Health (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act). Each request was for any documentation containing the Applicant's name, held by a specific employee of the Public Body. A different employee was named by the Applicant in each request, and a different time period was specified for each request.

The Public Body assigned each request a file number and provided one response to all four requests. It provided some documents, but also withheld some information under sections 17, 19, and 24 of the Act.

The Applicant requested a review of the Public Body's decision to withhold the information. The Commissioner authorized an investigation.

Subsequently, the Applicant requested an inquiry into the Public Body's decision to continue to withhold information under section 17(1) of the Act in one record.

The Adjudicator found that section 17(1) did not apply to some of the information the Public Body had withheld and ordered the Public Body to disclose this information to the Applicant. She found that the Public Body had properly applied section 17(1) to withhold the remainder of the information.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 17, 71, 72.

Authorities Cited: AB: Orders 99-028, F2009-026, F2012-24, F2019-07, F2019-09, F2019-10, F2019-17

I. BACKGROUND

[para 1] On October 16, 2014, the Applicant made four separate access requests to Alberta Health (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act). Each request was for any documentation containing the Applicant's name, held by a specific employee with the Public Body. A different employee was named by the Applicant in each request, and a different time period was specified for each request.

[para 2] On December 3, 2014, the Public Body provided the Applicant with one response to all the requests. It provided some documents, but also withheld some information under sections 17(1), 17(4), 19(1), and 24(1)(b)(i) of the Act.

[para 3] The Applicant requested a review of the Public Body's decision to withhold the information. The Commissioner authorized an investigation.

[para 4] Following the investigation, the Applicant requested an inquiry into the Public Body's decision to continue to withhold some information on page 107 of the responsive records, under section 17(1). The Commissioner agreed to conduct an inquiry and delegated her authority to conduct it to me.

II. RECORDS AT ISSUE

[para 5] The record at issue consists of one page: page 107, of the records.

III. ISSUE

[para 6] The Notice for Inquiry dated May 3, 2018, states the issue for this inquiry as follows:

Does section 17(1) of the Act (disclosure harmful to personal privacy) apply to the information severed from the record?

IV. DISCUSSION OF ISSUE

Does section 17(1) of the Act (disclosure harmful to personal privacy) apply to the information severed from the record?

[para 7] Page 107 consists of a chain of three emails among employees of the Public Body. The first email was disclosed in its entirety to the Applicant. It was sent from one

employee (Employee A) to a number of other employees (I will refer to these employees in the order in which their names appeared in the email, as Employees B, C and D), and copied to Employee E. It contained the Applicant's name as part of the "Subject" field.

[para 8] The second email is a reply from one of the recipients, (Employee C), addressed only to Employee A. The Public Body disclosed the information in the "From", "Sent", "To", and "Subject" fields to the Applicant, as well as a portion of the content of the email. It withheld the balance of the information under section 17(1).

[para 9] The third email is a reply from Employee A to Employee C's response to Employee A's original email. It is addressed only to Employee C. The Public Body disclosed the information in the "From", "Sent", "To", and "Subject" fields to the Applicant, as well as a portion of the content of the email. The Public Body made three redactions to the third email under section 17(1).

[para 10] It is the information redacted from the second and third emails that the Applicant seeks to have disclosed.

Application of Section 17(1)

[para 11] Section 17(1) of the Act states:

17(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

[para 12] For section 17(1) to apply, the withheld information must first be found to be personal information of a third party and second, the disclosure of the information must be determined to be an unreasonable invasion of the third party's personal privacy.

[para 13] As noted in numerous prior Orders of this Office, section 17(1) is a mandatory exception: if the information falls within the scope of the exception, it must be withheld (see, for example: Orders F2019-17 at para. 27, F2019-10 at para. 9, and F2019-09 at para. 10).

[para 14] In Order F2019-07 the Adjudicator discussed section 17 and explained the analysis that is to be undertaken when information is withheld under section 17(1), as follows:

[para 22] Section 17 does not say that a public body is never allowed to disclose third party personal information. It is only when the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy that a public body must refuse to disclose the information to an applicant under section 17(1). Section 17(2) (not reproduced) establishes that disclosing certain kinds of personal information is not an unreasonable invasion of personal privacy.

[para 23] When the specific types of personal information set out in section 17(4) are involved, disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. To determine whether disclosure of personal information would be an unreasonable invasion of the personal privacy of a third party, a public body must consider and weigh all relevant circumstances under section 17(5), (unless section 17(3), which is restricted in its application, applies). Section 17(5) is not an exhaustive list and any other relevant circumstances must be considered.

[para 24] Section 17(1) requires a public body to withhold information once all relevant interests in disclosing and withholding information have been weighed under section 17(5) and the conclusion is reached that it would be an unreasonable invasion of the personal privacy of a third party to disclose his or her personal information.

[para 25] Once the decision is made that a presumption set out in section 17(4) applies to information, it is necessary to consider all relevant factors under section 17(5) to determine whether it would, or would not, be an unreasonable invasion of a third party's personal privacy to disclose the information.

[para 26] However, it is important to note that section 17(1) is restricted in its application to personal information. Before a public body may apply section 17(1), it must first determine whether the information in question is personal information or that it is likely to be so. In this case, I must consider whether the information to which the Public Body has applied section 17(1) is personal information.

[para 15] Accordingly, in determining whether section 17(1) applies, the first question that must be answered is whether the information withheld by the Public Body on page 107 consists of personal information of a third party.

Is the withheld information personal information of a third party?

[para 16] Section 1(n) defines personal information under the Act:

1 In this Act,

- (n) "personal information" means recorded information about an identifiable individual, including*
 - (i) the individual's name, home or business address or home or business telephone number,*
 - (ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,*
 - (iii) the individual's age, sex, marital status or family status,*
 - (iv) an identifying number, symbol or other particular assigned to the individual,*
 - (v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,*

- (vi) *information about the individual's health and health care history, including information about a physical or mental disability,*
- (vii) *information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,*
- (viii) *anyone else's opinions about the individual, and*
- (ix) *the individual's personal views or opinions, except if they are about someone else;*

[para 17] Section 1(r) of the Act provides the following definition of “third party”:

1 In this Act,

- (r) *“third party” means a person, a group of persons or an organization other than an applicant or a public body;*

[para 18] The Public Body submitted that the information severed from record 107 was personal information as per section 1(n) of the Act, and that the personal information did not pertain to the Applicant. Therefore, it was required to deny disclosure as per section 17(1).

[para 19] The Public Body further submitted that the information severed from record 107 contained the name of a third party and included information which would reveal the substance of conversations the third party had with their colleagues.

[para 20] In the Applicant's rebuttal submission she stated:

My plea for requesting the withheld information on page 107 supports all accounts of disrespectful behaviours placed towards myself. Page 107 initially was a notification of my medical supported absence due to my workplace injury which took place on [date], Page 107 information dated on a June 5, 2014 should have not been a continuous ongoing subject of myself between Supervisor [Employee A], another Employee [Employee C] and nor this third party colleague (which respondent has identified as colleague). I am the subject of the complete conversation among Supervisors, Employee and unidentified third party Colleague and feel the disclosure of the third party personal information is not an unreasonable invasion of their privacy as I am still the “Subject” of this conversation, with no thought was put towards my invasion of privacy among others.

[para 21] The withheld information in the second email is one continuous sentence. It contains the name of a third party and Employee C's views or opinions about the third party. It is possible that the information may, as the Public Body has submitted, reflect the substance of conversations the third party had with Employee C.

[para 22] Section 1(n)(i) states that an individual's name is their personal information. The third party's name, is the third party's personal information.

[para 23] Section 1(n)(ix) states that personal information includes the individual's personal views or opinions, except if they are about someone else. Section 1(n)(viii) says that personal information includes "anyone else's opinions about the individual." Pursuant to these sections, Employee C's personal views or opinions about the third party are the third party's personal information.

[para 24] As there was some ambiguity as to whether the first three words of the sentence were personal information about the third party, I asked the Public Body to address this.

[para 25] The Public Body stated that these words described Employee C's personal opinion in reaction to a situation that transpired with regards to an individual in her office, who was not the Applicant. It stated that the first three words constituted personal information of a third party. I have determined that in the context in which they appear, these three words are part of Employee C's views or opinions about the third party, who is not the Applicant.

[para 26] The balance of the redacted sentence contains the third party's name and Employee C's views or opinions about the third party, and, for the reasons set forth above, are the third party's personal information.

[para 27] Accordingly, I find that all of the withheld information in the second email is the personal information of the third party.

[para 28] With respect to the information in the third email, the Public Body submitted that the first redaction was a personal opinion of Employee A, that was not about the Applicant. It submitted that the second and third redactions were the personal information of a third party.

[para 29] As the Public Body has characterized the information in the first redaction as the personal information of Employee A, I must determine whether Employee A is a third party for the purposes of section 17(1).

[para 30] In Order F2009-026, the Adjudicator considered whether an employee of a public body could be considered a "third party" for the purpose of section 17(1). She stated:

[para 11] If information is about employees of a public body acting in a representative capacity the information is not personal information, as the employee is acting as an agent of a public body. As noted above, the definition of "third party" under the Act excludes a public body. In Order 99-032, the former Commissioner noted:

The Act applies to public bodies. However, public bodies are comprised of members, employees or officers, who act on behalf of public bodies. A public body can act only through those persons.

In other words, the actions of employees acting as employees are the actions of a public body. Consequently, information about an employee acting on behalf of a public body is not information to which section 17 applies, as it is not the personal information of a third party. If, however, there is information of a personal character about an employee of a public body, then the provisions of section 17 may apply to the information. I must therefore consider whether the information about employees in the records at issue is about them acting on behalf of the Public Body, or is information conveying something personal about the employees.

[para 31] Likewise, in Order F2019-10 the Adjudicator noted:

[para 11] Previous orders from this Office have found that section 17 does not apply to personal information that reveals only that the individual was acting in a formal, representative, professional, official, public or employment capacity, unless that information also has a personal dimension (Order F2008-028, para. 54).

[para 32] The Public Body submitted that Employee A was the supervisor of the Applicant and Employees B, C and D. In the “Management Job Description Plan” for Employee A provided to me by the Public Body, it states:

Human Resource Management

- The incumbent is responsible for all aspects of Human Resource management for the division including, liaison with the department Human Resources Branch, recruitment management, classification management, FTE management and day to day human resource management.
- Central coordination of human resource management for the division ensures divisional priorities are set, adjusted to reflect changing priorities and FTE and temporary staff use is maximized.

[para 33] The first email sent by Employee A to Employees B, C and D, and copied to Employee E, and fully disclosed to the Applicant, was clearly sent by Employee A as part of her job responsibilities for day to day human resource management.

[para 34] The Public Body submitted that the events described in the first email did not affect or otherwise relate to the work duties of Employee C.

[para 35] The Public Body submitted that because Employee C’s work duties were unaffected by the information in the first email, when Employee A responded to Employee C in the third email, the personal information/opinion expressed by Employee A was appropriately characterized as an offer of reassurance amongst colleagues regarding a non-work related duty or matter.

[para 36] The Public Body also submitted that the redactions on record 107 represented an exchange of personal opinions as between Employee A and Employee C, in response to a work related incident that occurred at the Public Body.

[para 37] As I understand the Public Body’s submissions, its position is that, at least in regard to the first redaction in the third email, because Employee C’s job duties were not

affected by the information in the first email Employee A sent to Employee C, which was about a work related matter, when Employee A responded to the statements made by Employee C in the second email, Employee A stepped out of her representative capacity for the Public Body, and her job responsibilities as a supervisor of Employee C, and provided her own personal opinion to Employee C, as a colleague.

[para 38] I do not find this to be the case. I find that in responding to Employee C's email, Employee A was continuing to act as a representative of the Public Body and carrying out her job responsibilities for day to day human resource management. The chain of emails was about a work related matter. Employee A was responding to Employee C's comments in the second email, which Employee C sent in response to the information contained in Employee A's first email.

[para 39] I find Employee A was responding to Employee C's comments as her supervisor, in her representative capacity as part of her employment duties. The fact that Employee C's job duties and responsibilities were not affected by the information in Employee A's first email does not change the work relationship between Employee A and Employee C, or take Employee A's response in the third email outside of her job responsibilities.

[para 40] The question then is whether there is a personal dimension to the information in the first redaction of the third email that would transform the information from Employee A's work response in her role as a supervisor, to personal information about her.

[para 41] Employee A chose the words she would use as Employee C's supervisor, to respond to the comments made by Employee C in the second email. She was managing Employee C, and responding to statements made by Employee C about a work related matter. The fact that the work related matter or incident did not affect Employee C's duties or responsibilities, does not mean that Employee A was not acting as Employee C's supervisor when she responded.

[para 42] I find that Employee A's words in the first redaction were an expression of her view or opinion, as a supervisor, to the comments expressed by Employee C. I do not find that these words, in this context, have a personal dimension that takes them outside of Employee A's role as a supervisor and transforms them into a personal opinion she was sharing with a colleague, as submitted by the Public Body.

[para 43] As I find that the information in the first redaction of the third email is Employee A's view or opinion as a supervisor, that was expressed as a representative of the Public Body in carrying out her supervisory duties, and the information does not have a personal dimension, Employee A is not a third party for the purpose of section 17, and section 17 does not apply to that information. I must accordingly direct the Public Body to give the Applicant access to this information.

[para 44] With respect to the second and third redactions in the third email, I find that the redacted information is personal information about a third party under section 1(n)(i) and 1(n)(iii) of the Act. The third party is not the Applicant.

[para 45] Where I have determined the information redacted from the second and third emails is personal information about a third party, the next question to be answered is whether the disclosure of this information to the Applicant would be an unreasonable invasion of the third party's personal privacy.

Would the disclosure of the personal information be an unreasonable invasion of the third party's personal privacy?

[para 46] Section 17(2) of the Act sets out the situations in which a disclosure of personal information is not an unreasonable invasion of a third party's personal privacy.

[para 47] Section 17(3) provides that the disclosure of personal information under subsection (2)(j) is an unreasonable invasion of personal privacy if the third party whom the information is about has requested the information not be disclosed.

[para 48] Neither party argued that any of the provisions in sections 17(2) or (3) applied in this case. Based on my review of the redacted information and arguments before me, none appear to apply.

[para 49] Section 17(4) of the Act sets out the situations in which a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy.

[para 50] The Public Body submitted that section 17(4)(g)(i) applied to record 107 on the basis that the information severed from record 107 contained the name of a third party and included information which would reveal the substance of conversations the third party had with their colleagues.

[para 51] Section 17(4)(g) of the Act states:

- (4) *A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if*
 - (g) *the personal information consists of the third party's name when*
 - (i) *it appears with other personal information about the third party, or*
 - (ii) *the disclosure of the name itself would reveal personal information about the third party,*

[para 52] The information withheld in the second email contains the name of a third party and other personal information about the third party; namely, as I have found

above, Employee C's views or opinions about the third party. Accordingly, I find that section 17(4)(g)(i) applies to the information withheld in the second email.

[para 53] The second redaction in the third email contains the name of a third party, and the third redaction contains other personal information about the third party. There is also additional personal information about the third party that appears in the email. Accordingly, I find that section 17(4)(g)(i) applies to the information withheld in the second and third redactions of the third email.

[para 54] Having determined that section 17(4)(g)(i) applies to the information described above, the next question to be addressed is whether the Public Body properly considered all relevant factors under section 17(5) in reaching its conclusion that it would be an unreasonable invasion of the third party's personal privacy to disclose the information.

[para 55] Section 17(5) of the Act states:

- (5) *In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether*
- (a) *the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,*
 - (b) *the disclosure is likely to promote public health and safety or the protection of the environment,*
 - (c) *the personal information is relevant to a fair determination of the applicant's rights,*
 - (d) *the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,*
 - (e) *the third party will be exposed unfairly to financial or other harm,*
 - (f) *the personal information has been supplied in confidence,*
 - (g) *the personal information is likely to be inaccurate or unreliable,*
 - (h) *the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and*
 - (i) *the personal information was originally provided by the applicant.*

[para 56] In her request for inquiry, the Applicant stated she had made these access requests "in hopes to maintain information with my appeal for WCB and Alberta Human

Rights concerns detailing of workplace harassment, discrimination, and disrespectful behaviours I am experiencing.”

[para 57] The Applicant stated that she believed the information withheld on page 107 would “support proof in writing to my complaints within the Government of Alberta’s Respectful Workplace Policy, Alberta Human Rights Act, and proving my Dignity as a Government of Alberta employee.”

[para 58] Additionally, the Applicant stated she believed the withheld information “supports the motives of disrespectful behaviors which is currently partly confirmed on page 107, fully acknowledged by supervisor with the ongoing conversation as myself being the topic but, still allowed these disrespectful actions to continue to the point it’s now affected my health and reputation as an employee.”

[para 59] The Public Body submitted that it reviewed all relevant circumstances as required by section 17(5) of the Act.

[para 60] The Public Body stated that no argument was raised by the Applicant in her submissions or elsewhere in her request for inquiry in relation to section 17(5)(a), (b), (d), (e), (f), (g), (h) and (i) of the Act, and that those clauses did not apply in this inquiry. It submitted that the only applicable factors in section 17(5) of the Act that may be an issue before this inquiry were those identified in section 17(5)(c).

[para 61] The Public Body noted that the Applicant had made submissions that she required the information withheld in record 107 for the purposes of an appeal to the Workers’ Compensation Board and for the purposes of filing a complaint with the Alberta Human Rights Commission. It stated that these submissions could be construed as an argument that disclosure of the third party’s personal information was relevant to a fair determination of the Applicant’s rights.

[para 62] The Public Body submitted, however, that the Applicant had provided insufficient information in her submissions for the Public Body to fully consider whether the disclosure of the information was an unreasonable invasion of the third party’s personal privacy under section 17(5)(c) of the Act, as it relates to the above concern.

[para 63] The Public Body referred to Order 99-028, which set out four criteria which must be met in order for section 17(5)(c) (formerly section 16(3)(c)) of the Act to apply:

- (a) the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds;
- (b) the right is related to a proceeding which is either existing or contemplated, not one which has already been completed;
- (c) the personal information which the appellant is seeking access to has some bearing on or is significant to the determination of the right in question; and

- (d) the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.

[para 64] The Public Body submitted that the Applicant's submissions did not address any of these criteria and, as a result, the Public Body was unable to determine whether the four criteria had been met. It submitted that the onus was on the Applicant to provide argument and evidence to establish the four criteria had been met, and that by failing to provide such argument and evidence, the Applicant's submissions were insufficient for section 17(5)(c) to be a relevant consideration.

[para 65] I note that these four criteria were recently affirmed by the Adjudicator in Order F2019-10 (see para. 16).

[para 66] The Public Body submitted that it had reviewed all relevant circumstances as required by section 17(5) of the Act and properly determined that the circumstances did not overcome the presumption in section 17(4).

[para 67] The Public Body submitted that the Applicant had not provided any information or proof that the information severed from record 107 would not be an unreasonable invasion of the third party's personal privacy and, as a result, the Applicant had failed to meet the burden of proof required under section 71(2) of the Act.

[para 68] As noted by the Director of Adjudication in Order F2012-24 at para. 29, once a public body has demonstrated that the information it has withheld is personal information, and has explained how it discharged its duty under section 17(5) in relation to that information, then, by reference to section 71(2), the burden falls to the applicant to show that it would not be an unreasonable invasion of personal privacy to disclose the information about a third party.

[para 69] The Public Body has explained how it discharged its duty under section 17(5) in relation to the information it has withheld.

[para 70] Some of the circumstances under section 17(5) do not appear to be engaged in any way in this case, such as sections 17(5)(a), (b), (d), and (i). Sections 17(5)(e), (f), (g) and (h) might have had some application; however, the Public Body said they did not apply, and given that I do not have any arguments from either party on these sections, I am unable to determine whether they would have weighed in favour of disclosure or not.

[para 71] In the Applicant's rebuttal submission she stated:

Yes, it is true I am still requesting the information on page 107 be released in support of full disclosure in supporting of my WCB appeal with The Appeal Commission. The information provided on page 107 was provided to Alberta Human Rights & WCB claim but, during this period of time, Alberta Health's FOIP office refused to share the disclosed information of the full conversation to

be provided even thou [sic] the withheld information supports my claim of negative commentary and hostile work Harassment Environment.

[para 72] With respect to the application of section 17(5)(c), the Applicant has indicated in both her request for inquiry and her rebuttal submission, that she required the redacted information on page 107 for her appeal with the Workers' Compensation Board and for a complaint with the Alberta Human Rights Commission. Her submissions indicated she had provided the information disclosed to her by the Public Body on page 107 to both the Alberta Human Rights Commission and the Workers' Compensation Board.

[para 73] While the Applicant has complained throughout her submissions about behaviors by the Public Body that she regards as disrespectful, and while she mentions the Government of Alberta's Respectful Workplace Policy, she does not tell me either that she has actually made a complaint relative to this policy, or that she intends to. In her submissions, she mentions only the Workers' Compensation Board appeal and her complaint to the Alberta Human Rights Commission as actions she has actually commenced.

[para 74] Accordingly, the only proceedings I am able to consider at this point in relation to section 17(5)(c), are the Applicant's Workers' Compensation Board appeal and her complaint to the Alberta Human Rights Commission.

[para 75] If either the proceeding before the Workers' Compensation Board Appeals Commission, or the proceeding before the Alberta Human Rights Commission has been completed, then section 17(5)(c) would not be a consideration with respect to that particular proceeding. However, there is no information before me to indicate that either of these proceedings have been completed. As a result, it would appear that the first two criteria set out above have been met by either the Applicant's proceeding before the Workers' Compensation Board Appeals Commission or her proceeding before the Alberta Human Rights Commission.

[para 76] The third criterion requires the Applicant to show how the personal information she is seeking access to has some bearing on or is significant to the determination of the right in question.

[para 77] The fourth criterion requires the Applicant to establish that the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.

[para 78] In her request for inquiry the Applicant submitted that the withheld information would provide proof in writing of her complaint under the Alberta Human Rights Act. She further stated that the withheld information:

. . . supports the motives of disrespect behaviors which is currently partly confirmed on page 107, fully acknowledged by supervisor with the ongoing conversation as

myself being the topic but, still allowed these disrespectful actions to continue to the point it's now affected my health and reputation as an employee.

[para 79] In her rebuttal submission, the Applicant submitted that she had been subjected by the Public Body to “offences, humiliation, degrading behaviors all form of Harassment strongly affecting my health both (physically/mentally) and safety placed in this workplace environment.” She submitted that the redacted information “supports all accounts of disrespectful behaviors towards myself.”

[para 80] As mentioned above, the Applicant also stated in her rebuttal submission:

I am the subject of the complete conversation among Supervisors, Employee and unidentified third party Colleague and feel the disclosure of the third party personal information is not an unreasonable invasion of their privacy as I am still the “Subject” of this conversation, with no thought was put towards my invasion of privacy among others.

[para 81] In addition, the Applicant stated in her rebuttal submission that “all attached individuals need to be accountable along with the transparency of this information.”

[para 82] As I have concluded above, the information remaining at issue in the second and third emails is the personal information of a third party. Although the Applicant's name appeared in the “Subject” line of the emails, the information she seeks is about someone else.

[para 83] I acknowledge it can be difficult for an applicant to try and make arguments for the disclosure of information when the applicant has not seen the information. In this case, the Applicant knows that the information in the remaining redactions was withheld by the Public Body on the basis that it was personal information about a third party. I have considered the Applicant's submissions and why the Applicant says she requires the personal information of the third party, in order to determine whether the third and fourth criteria of the test for section 17(5)(c) to apply, have been met.

[para 84] With respect to the Applicant's appeal to the Workers' Compensation Board Appeals Commission, the Applicant has not provided any information about what issues are to be decided in her appeal. She has not explained how the third party's personal information would have a bearing on or is significant to the right in question, or why the third party's personal information is required in order to prepare for her appeal or to ensure an impartial hearing.

[para 85] In this case, I do not have enough information to conclude that the last two criteria of the section 17(5)(c) test have been met. Therefore, I am not persuaded that section 17(5)(c) applies with regard to the Applicant's appeal to the Workers' Compensation Board Appeals Commission.

[para 86] Likewise, with respect to the Applicant's complaint to the Alberta Human Rights Commission, the Applicant has not provided any detail about that proceeding.

The Applicant has not sufficiently explained how knowing the name of the third party, and Employee C's views or opinions about the third party, would have some bearing on or be significant to the determination of the Applicant's right in question before the Alberta Human Rights Commission.

[para 87] Having reviewed the redacted information and considered the submissions before me, I do not see how knowing the third party's personal information would have any bearing on or be significant to the determination of the Applicant's right in question before the Alberta Human Rights Commission.

[para 88] Nor has the Applicant sufficiently explained how disclosure of the information is required in order to prepare for the proceeding or ensure a fair hearing, and as a result, has not met the fourth requirement of the test for section 17(5)(c) to apply.

[para 89] Accordingly, I find that section 17(5)(c) does not apply in these circumstances.

[para 90] In summary, I find that the Applicant has failed to meet the burden of showing that it would not be an unreasonable invasion of the third party's personal privacy to disclose the personal information about the third party.

[para 91] Accordingly, I confirm the Public Body's decision to withhold the information in the second email and the second and third redactions in the third email, under section 17(1).

V. ORDER

[para 92] I make this Order under section 72 of the Act.

[para 93] I find that section 17(1) does not apply to the first redaction in the third email and order the Public Body to disclose this information to the Applicant.

[para 94] I find that the disclosure of the balance of the information withheld in both the second and third emails would be an unreasonable invasion of the privacy of the third party. I confirm the Public Body's decision to refuse access to that information.

[para 95] I further order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

Carmen Mann
Adjudicator