

**NORTHWEST TERRITORIES
INFORMATION AND PRIVACY COMMISSIONER**

Review Recommendation 16-155

File: 16-163-4

December 21, 2016

BACKGROUND

This matter came to my attention in the form of a complaint by a Government employee that his supervisor had inappropriately disclosed his personal information, including personal health information, to his fellow employees. According to the Complainant, he had a doctor's note to be off work for a little over a week. When he gave the note to his supervisor, she called the work group to a meeting at which she not only disclosed that the Complainant had a medical note that he needed to be off work, but also that she had previously denied the Complainant those same days off, implying to the work group that his sick note was not legitimate.

THE PUBLIC BODY'S RESPONSE

When asked for their response to the allegations made by the Complainant, the public body undertook an internal investigation and the supervisor confirmed the Complainant's allegations that she had disclosed his personal information to staff members during a meeting. The supervisor said that the meeting was called "to discuss work assignments/priorities" during the Complainant's absence. After advising the staff that the Complainant would be off work for a period of time and that he had previously been denied the same days off because of operational requirements through the more conventional leave application process, they talked about how they would meet their work load.

The public body concluded, therefore, that the Complainant's allegations were well founded and that his privacy had, indeed, been breached. They further concluded that there was a need for greater awareness about the privacy provisions of the Act. In their discussions with staff, they say it became clear that there was a lack of understanding over what constitutes personal information and how much information could be disclosed in the management of personnel. As a result, they contacted the GNWT Access and Privacy Office to request training options that would benefit the staff. In addition, the manager was asked to send monthly reminders to all staff about the protection and security of personal information.

DISCUSSION AND RECOMMENDATIONS

Government employees should be able to rely on their employers not to disclose their personal information. This is sometimes not as easy as it might, at first blush, appear. When one person from a small office is not at work, it's obvious to other employees that the individual is not at work. People will talk and, in cohesive workplaces, where employees are friends as well as co-workers, there is a good chance that at least one fellow employee will know something about the reason for the absence and talk about it within the workplace. That said, management should not be disclosing the reason for the absence. It may be that the individual him or herself has disclosed to the rest of the staff that they are planning to be away and the purpose of the absence, which is the individual's prerogative. But that information is not for management to disclose.

Sections 43 through 49 of the Act outline the circumstances in which public bodies may use or disclose the personal information of an individual. Section 48(i), in particular, allows for the use or disclosure of personal information "for the purpose of hiring, managing or administering personnel of the Government of the Northwest Territories or a public body". This does not, however, give public bodies the right to disclose personal information where it is not **necessary** for the management of personnel. I cannot think of a situation in which it would be necessary to advise all staff that a fellow employee was away because of illness or that the individual had asked for, but had been denied, leave for the same dates. This is just not necessary for the purposes of managing personnel.

In light of the steps already taken to address the systemic issue, I am satisfied that this office has appropriately addressed the issue. I would, however, recommend that these steps be expanded such that all managers in the department be given basic ATIPP training and that the ongoing messaging be department-wide as well.

Elaine Keenan Bengts
Information and Privacy Commissioner