

# Asking for social media passwords violates privacy

Employers' request akin to questions on age or ethnicity

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Job seeker Rob MacLeod says he was "taken aback" when an interviewer asked for his Facebook log-in and password so he could screen MacLeod's photos as part of the job interview.

But privacy experts say asking for social media passwords is crossing the line of "reasonable" employment criteria, akin to asking out-of-bounds questions on age or ethnicity.

MacLeod said he questioned why this was necessary.

"He just pretty much became defensive himself saying 'Oh, you know, if you have something to hide. . . . We don't have to go forward in this process,'" MacLeod told Postmedia News.

MacLeod, a 28-year-old Oakville, Ont., resident, said he offered to log the interviewer in, but he refused, asking to access MacLeod's account directly.

"I have nothing to hide. (I said) 'You can look at it. I just don't like to disclose passwords,'" he recalled of the law enforcement position he applied for in 2009.

After the interviewer logged into MacLeod's account, MacLeod said the interviewer came back and explained, "We just want to see some of the photos and see what people you are involved in."

Meanwhile, privacy law experts worry about how the line between private and public life is being blurred in social media.

David Fraser, a Halifax-based privacy lawyer who runs the Canadian

Privacy Law Blog, called this case "a completely unjustified invasion of privacy."

According to Fraser, Canada has a "patchwork" of employment privacy laws.

On the federal level, there is the Privacy Act, which imposes obligations on federal government agencies to respect individual privacy rights concerning the use and collection of personal information, while the Personal Information Protection and Electronic Documents Act is its private-sector equivalent.

However, there is no specific provision on collecting social media information.

According to Canada's Office of the Privacy Commissioner, each province and territory has privacy legislation on its use of personal information by government agencies.

British Columbia, Alberta and Quebec are the only provinces with laws that are similar to the federal privacy laws.

Toronto-based business lawyer Javad Heydari said requiring social media passwords is not illegal in Ontario.

Fraser explained that provinces with privacy legislation have a "baseline requirement" that all collected information must be "reasonable."

There's a power imbalance between the interviewer and job seeker wherein consent given may be "coerced," even if it was provided, he explained.

"If a person interviewing you asked for your diary or photo album, would that be reasonable? Would they ask for transcripts with your wife, husband or parents?" Fraser said, comparing people's increasing use of Facebook to private conversations.

Donald Richards, a B.C. privacy lawyer who represents employers, said he wouldn't advise his clients to require social media passwords.