Decision F25-03

MARCUS OOMS

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Summary: The Office of the Information and Privacy Commissioner initiated and conducted a proceeding to determine whether an individual's use of FIPPA amounted to an abuse of process and, if it did, what remedy would be appropriate. A delegate of the Commissioner determined that the individual had engaged in an abuse of process and placed restrictions on the individual's access to the OIPC's services to remedy the applicant's abuse of process.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss. 42, 55, and 56.

INTRODUCTION

[1] Following a large amount of correspondence received by the applicant in five (5) closed OIPC files,[1] I initiated an abuse of process proceeding against Marcus Ooms (the "Respondent") as detailed in a notice letter sent May 16, 2025.[2] I conduct this matter as a delegate of the Commissioner under the *Freedom of Information and Protection of Privacy Act* (FIPPA).[3]

[2] The Notice detailed the legal authority for the Commissioner to initiate such a proceeding and informed the Respondent that due to his conduct in recent matters, a review of files before the OIPC was conducted and the present proceeding was initiated.[4] Enclosed with the Notice, the Respondent was provided with a list of 43 cases opened with the OIPC since 2016 involving himself and either the Workers' Compensation Board ("WCB") or the Workers' Compensation Appeal Tribunal

[1] INV-F-24-98529; INV-F-24-96897; INV-F-25-00187; INV-F-25-00526; and INV-F-25-96882.
[2] Notice Letter sent May 16, 2025 ("Notice").
[3] RSBC, c 165. Delegation matrix is available here: https://www.oipc.bc.ca/media/17789/2025-05-12-fippa-delegation.pdf.
[4] Notice, pg. 2.

("WCAT").[5] The Notice also provided examples from correspondence in recent files that, together with the table of file history, appeared to be an abuse of process.[6] The Respondent was provided with an opportunity to respond to the Notice with a submission of no more than 10 pages by a deadline of May 30, 2025.

[3] On May 30, 2025, the Respondent wrote to me requesting an extension to June 2, 2025, to provide his submission, which I granted that same day.[7]

[4] On May 30, 2025, the Respondent filed a petition in BC Supreme Court, which among other relief, sought an order "[t]hat the OIPC be ordered to cease its prosecution of GEN-F-25-00258, which entirely relates to matters already finally decided."[8] The same relief is being sought by the Respondent in two additional petitions filed June 20, 2025.[9]

[5] On June 2, 2025, the Respondent sent a ten-page submission to me, which included substantive submissions and raised several procedural concerns.[10]

[6] On June 27, 2025, I sent a letter to the Respondent clarifying the procedural matters raised by the Respondent on June 2, attaching a 131-page record of proceedings (the "Record"), and inviting a further 5-page submission from the Respondent (the "Clarification").

[7] On July 11, 2025, the Respondent sent a further submission in response to the Clarification (the "Further Submission").

ISSUES

[8] The issues to be decided in this proceeding are as follows:

1. Is the Respondent's use of FIPPA an abuse of process?
2. If the Respondent has abused FIPPA's processes, what remedy, if any, is appropriate?

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[5] Record, pg. 130.
[6] Notice, pg. 3.
[7] Emails dated May 30, 2025.
[8] SBC2510919(Vic).
[9] SBC2510988(Vic) and SBC2510989(Vic).
[10] Respondent's Initial Submission, June 2, 2025 (the "Initial Submission").

DISCUSSION

Procedural issues

[9] The Respondent has devoted a significant portion of his submissions to challenging this proceeding's validity, including:

- that this proceeding has already found him to have committed "various misconducts,"[11] and lacks the particularity to allow him to fairly respond;
- the fact that the present proceeding is not being brought under the OIPC's Respectful Conduct Policy,[12] and that is he is entitled to be able to rely on the processes in that policy and to depart from them is procedurally unfair;[13]
- that the Notice, Record, and Clarification lack the necessary particularities for him to be able to respond fairly;
- the nature of this proceeding as a review only of the procedural aspects of the Respondent's behaviour, and not a reopening of previously decided matters by OIPC delegates; [14]
- that I am biased as the decision-maker by virtue of my role at the OIPC and by being both "complainant" and "adjudicator" in this proceeding;
- that the burden of proof used in this proceeding is improper;
- that no statutory authority exists for this proceeding and the OIPC does not have the inherent jurisdiction to create a process without specific legislative authority;[15]
- that the Record is incomplete; [16] and
- that the page limits placed on the Respondent were unfair and did not allow the Respondent to include relevant evidence.[17]

Each will be addressed below in turn before turning to the main issue of abuse of process.

Authority to consider abuse of any process under FIPPA

[10] The authority for the OIPC to consider an abuse of process at any stage of an OIPC file was recently addressed in Order F25-43:

> It is now well established that the OIPC, as an administrative tribunal exercising quasi-judicial functions, has the power to control its own procedures. Further, the powers conferred by FIPPA include not only those expressly granted but also, by

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[11] Initial Submission, pg. 4.
[12] https://www.oipc.bc.ca/media/17779/15-oipc-respectful-conduct-policy.pdf.
[13] Further Submission, pg. 1.
[14] *Ibid*, pg.1
[15] *Ibid*, pg. 1.
[16] *Ibid*, pg. 2.
[17] *Ibid*, pg. 3.

> implication, all powers which are practically necessary to accomplish the purposes of FIPPA.
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> Section 42(1) sets out the general powers of the Commissioner and says that the Commissioner "is generally responsible for monitoring how [FIPPA] is administered to ensure that its purposes are achieved." The purposes of FIPPA are to make public bodies more accountable to the public and to protect personal privacy by, among other things, providing for an independent review of decisions made under FIPPA.
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> Applicants that abuse FIPPA's processes by making improper use of the limited public resources allocated to the OIPC undermine the Commissioner's ability to give timely and equitable attention to other applicants and, as a result, interfere with the proper administration of FIPPA. An applicant that engages in this kind of abuse of process harms not only the parties involved directly in their files, but the Commissioner's overall ability to effectively provide an independent review of public bodies' decisions under FIPPA.
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> For these reasons, the Commissioner's general responsibility to monitor how FIPPA is administered, which is set out in s. 42(1), must be read to include the authority to prevent and remedy abuse of process at each stage of an OIPC file, including when considering whether to conduct or continue an investigation under s. 55 or an inquiry under s. 56.[18]

[11] The Adjudicator went on to consider whether the Commissioner or their delegate had the authority to conduct an abuse of process proceeding on their own initiative:

> Previously, the OIPC has only exercised its authority to remedy an abuse of process under s. 56(1), by cancelling an applicant's files, after receiving an application from a public body. This is the first time the OIPC has considered an abuse of process under s. 56(1) on its own initiative.
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> There is nothing in the language of s. 56(1) that suggests that the OIPC must wait for an application from a party before considering whether conducting an inquiry would condone an abuse of process.
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> Further, reading into s. 56(1) a requirement that the OIPC needs to wait for a party to raise the issue of abuse of process would limit the OIPC's ability to control its own procedures, thereby undermining the Commissioner's ability to administer FIPPA to ensure its purposes are achieved.
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> I find, based on interpreting s. 56(1) in its entire context, that there is no requirement that the OIPC wait for an application from a party to consider abuse of process when deciding whether to conduct an inquiry. The OIPC can, on its own

[18] Order F25-43, 2025 BCIPC 51 (CanLII) at paras 4-7, and the cases cited therein, original citations have been omitted but relied on from the quote.

> initiative, consider abuse of process at any stage in its files, including when considering whether to conduct an inquiry under s. 56(1).[19]

[12] Similar to the broad discretionary powers under s.56(1) not to initiate an inquiry, the Commissioner enjoys broad discretion on whether to investigate complaints under s.42(2). Together with the general duty to ensure the purposes of FIPPA are achieved, I find the broad discretion found in ss. 56(1) and 42(2) of FIPPA permit a delegate of the Commissioner to consider abuses of FIPPA's processes at any point they are engaged.

[13] I find further support for this position in the fact that the Commissioner is granted the power to permit public bodies to disregard access requests under s. 43 of FIPPA.

[14] Even absent an explicit power, the common law confers not only explicitly granted powers, but "by implication, all powers which are practically necessary for the accomplishment of the object intended to be secured by the statutory scheme created by the legislature."[20] The Commissioner is explicitly tasked with ensuring the proper administration of FIPPA.[21] The power to conduct this kind of proceeding and make findings with respect to abuse of process, and at the conclusion make remedial orders to ensure FIPPA is properly administered, is implicit in the Commissioner's power to ensure the proper administration of FIPPA. It is an incident of the Commissioner's authority to control his own processes by addressing conduct that interferes with the proper administration of FIPPA by undermining the Commissioner's ability to give timely and equitable attention to other applicants.

[15] For the above reasons, I find the Commissioner has the power to initiate this proceeding and make a decision on the issues identified in the Notice.

Procedural fairness

[16] The duty of procedural fairness is "eminently variable," inherently flexible and context specific.[22] The Supreme Court of Canada has identified a non-exhaustive list of factors to inform the content of the duty of fairness:

a) the nature of the decision being made and the process that followed in making it;
b) the nature of the statutory scheme;
c) the importance of the decision to the individual affected;
d) the legitimate expectations of the persons challenging the decision; and

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[19] *Ibid*, paras 11-14.
[20] *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4 at para 51.
[21] S. 42(1).
[22] *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para 77 ["Vavilov"].

e) the choices of procedure made by the administrative decision maker itself.[23]

[17] More recently, in a judicial review of an OIPC order on an abuse of process application, Justice Iyer characterized this duty as follows:

> [40] As established in *Baker* and subsequent cases, the hallmarks of a fair process in most situations are: notifying each party about the nature of the case, providing them an opportunity to present information and argument, and ensuring that an impartial decision-maker renders a decision.[24]

[18] The OIPC is a high-volume tribunal that processes thousands of files a year[25] in stages that are progressively more formal in accordance with OIPC policies and procedures. The more informal decisions, such as investigations, do not require "the full panoply of procedural fairness requirements" that would generally be reserved for litigation.[26] The most formal of OIPC procedures is an Inquiry, which involves written submissions exchanged between the parties and a published decision issued by an OIPC Adjudicator. Given this is the first time the OIPC has conducted this kind of proceeding, I will analyze the *Baker* factors in turn before making a finding on the Respondent's procedural entitlements.

a) Nature of the decision

[19] This decision could impact the Respondent's access and privacy rights, that is his ability to ask the OIPC to review the actions of public bodies respecting his personal information and is therefore more of a judicial than administrative or policy-oriented decision. This factor favors a middle range of procedural protections.

b) *Nature of the statutory scheme*

[20] FIPPA grants the Commissioner wide discretion, and I find that a middle range of procedural protections in line with other similar discretionary decisions of the Commissioner is appropriate.

c) *Importance of the decision to the individual affected*

[21] The Respondent has devoted a significant amount of his submissions discussing the importance of the issues in this proceeding, but also in the underlying proceedings before the WCB and WCAT. In particular, the Respondent cites impacts to his financial situation and injury to his reputation as relevant factors that should be considered.[27] In short, the Respondent has a deep, personal interest in the issues he is advancing. That

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[23] *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC) at paras 23-27 ["*Baker*"].
[24] *Cimolai v British Columbia (Information and Privacy Commissioner),* 2024 BCSC 948 (CanLII), para 40.
[25] British Columbia, Office of the Information and Privacy Commissioner, *Annual Report and Service Plan: 2024/25* (2025) at pg 30, https://www.oipc.bc.ca/documents/budget-annual-report-service-plans/2978.
[26] *Cran v British Columbia (Information and Privacy Commissioner)*, 2024 BCSC 1130 (CanLII), para 86.
[27] Initial Submission, pg. 4.

said, this factor is not just about the subjective interests of the individual, but the objective importance of the matter at hand. Objectively, this matter is not one with profound personal implications affecting the Respondent's liberty. I find that the objective importance of this decision requires a middle range of procedural protections.

d) *Legitimate expectations*

[22] Based on the Respondent's procedural complaints as outlined above, I understand his expectations be for a high degree of procedural protection. That said, the OIPC has established processes that generally fall from the low to middle range of protections as described above. The Respondent is entitled procedural protections similar to that of an OIPC inquiry, which fall at the middle of the range.

e) Choice of procedure by the decision-maker

[23] The nature of this proceeding as Commissioner-initiated meant some departure from processes followed in other OIPC matters was necessary. For example, the choice to send the Clarification and provide a further opportunity to be heard was made recognizing more explanation would be necessary to ensure the Respondent had a meaningful opportunity to participate and understand the process.

[24] Overall, the procedural entitlements owed to the Respondent fall in the middle of the range, with a court process being at the highest end of that spectrum. The entitlements are similar, but not exactly the same as the OIPC provides parties in an Inquiry; the most formal process the OIPC oversees.

[25] In this case, those entitlements included:

1. notice of the proceeding with an opportunity to provide submissions;
2. clarification of procedural questions and misunderstandings and further opportunity to provide submissions;
3. identification and provision of documents that would be relied on by the decision-maker;
4. a preliminary view of the opinion of the decision-maker; and
5. the legal standard that would be relied upon for making a final decision.

[26] The Respondent was given a page-limit of 10 pages for his initial submission, and 5 pages for his further submission, and argues that this was unfair to him. The Respondent said that the limits including any evidence was unfair to him, because the Record was determined by me.[28]

[27] As was communicated to the Respondent in the Clarification, the present matter is not a substantive review of the files that have already been decided by OIPC decision-makers, but is concerned with whether the Respondent is using the

[28] Further Submission, pg. 2.

procedures of FIPPA in an abusive way. For the total of 15 pages the Respondent was provided to make submissions, it appears he only addressed his conduct in about seven of those pages, with the remaining space being used to challenge the validity of this proceeding. He did not identify any arguments relevant to whether his conduct was an abuse of process that he was unable to address due to the page limit. I am not convinced the limit given to the Respondent resulted in an inability for him to respond to the substantive issues raised in the Notice.

[28] Regarding the Respondent's argument that he should be entitled to rely on the OIPC Reasonable Conduct Policy and the processes therein, I interpret this as an argument he was never aware this kind of process could occur, and it is unfair to him to have it sprung on him. The duty of fairness does not require the kind of advance warning of a potential procedure the Respondent argues for. Abuse of process is a common law doctrine that applies regardless of any tribunal or court procedure. The Notice and the Clarification clearly explained both the process and provided the legal test that would be used in a decision.

[29] I am mindful that the Respondent's rights under FIPPA may be affected by the outcome of this decision, and of the importance of the issues to the Respondent, which is why the above measures were put into place. The Respondent may disagree with the fact that it was initiated at all, but this has no bearing on procedural fairness. The Respondent had ample notice, had two opportunities to provide submissions, and was provided with a clear description of the case he needed to respond to. In my view, this meets the requirements of procedural fairness in the context of this particular proceeding.

Bias of decision-maker

[30] The final element of procedural fairness is the right to an impartial decision-maker. The Respondent's position is essentially:

> "[t]he conflicts here seem to be many, when I consider you are both complainant and judge in this matter, while you are also lawyer to the OIPC, while you are lawyer to each of the officials whose matters you resurrect, with this matter, where numerous of those matters are before the Court."[29]

[31] Similar arguments were made to the Court in *Cimolai*, before ultimately dismissing the bias argument, Justice Iyer helpfully summarized the law in this area:

> [60] The test for individual reasonable apprehension of bias is well-settled: would a reasonable and informed person, with knowledge of all relevant circumstances, viewing the matter realistically and practically, think that it is more likely than not that the decision-maker, whether consciously or unconsciously, would not decide fairly? See *R. v. S. (R.D.),* 1997 CanLII 324 (SCC), [1997] 3

[29] *Ibid*, pg. 5.

> S.C.R. 484 at para. 31; see also *Committee for Justice and Liberty et al. v. National Energy Board et al.*, 1976 CanLII 2 (SCC), [1978] 1 S.C.R. 369. Members of administrative tribunals benefit from the same presumption of impartiality as judges: *Huerto v. College of Physicians and Surgeons of Saskatchewan*, 2019 SKCA 139 at para. 130.
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> [61] The test for institutional bias is whether a fully-informed person would have a reasonable apprehension of bias in a substantial number of cases decided by the tribunal: *Canadian Pacific Ltd. v. Matsqui Indian Band*, 1995 CanLII 145 (SCC), [1995] 1 S.C.R. 3, 1995 at para. 72. If a statute authorizes the same body to act in what might otherwise be seen to be conflicting roles (for example, investigator, prosecutor and judge), that is insufficient, on its own, to give rise to institutional bias: *Bell Canada v. Canadian Telephone Employees Association*, 2003 SCC 36 at para. 40.

[32] As was clearly indicated in the Notice, and addressed in the Clarification, I am acting as a delegate of the Commissioner exercising powers under FIPPA. I take the Respondent's argument to be that since I also accepted service on behalf of the OIPC and of personally named OIPC decision-makers[30] in my role as in-house counsel to the OIPC until external counsel could be confirmed, I am unable to be an impartial decision-maker in the present proceeding.

[33] The Respondent also appears to be making an argument that my initiation of this proceeding is really an attempt to weaken the Respondent's chances of success in the judicial review proceedings he has initiated on other OIPC decisions, which is indicative of my bias in the present proceeding.

[34] The Respondent has offered no evidence to indicate that I am biased other than bare assertions and speculation and I am unable to impartially decide this matter. I recognize the Respondent takes issue with the fact this matter was initiated at all, but consistent with previous decisions in similar contexts, initiating such a proceeding is not sufficient to overcome the presumption of impartiality among administrative decision-makers.[31] The Respondent has not established that an informed person, viewing the matter realistically and practically, would conclude that I am unable to decide this matter fairly.

Burden of Proof

[35] The Respondent challenges the statement made in the Clarification that no formal burden of proof exists in this proceeding. The Clarification was cited Order F25-43, which the Respondent similarly disagrees with. The Adjudicator in that decision

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[30] I note that including individual decision-makers who have acted exclusively in their capacity as decision-makers for a tribunal has been held to be an abuse of process in itself: *Surrey (City) v. Oil and Gas Commission*, 2013 BCSC 1864 at para 118.
[31] F25-43, para 29.

concluded that no formal burden of proof existed, finding:

> As the decision-maker, I am not responsible for proving that the Applicant has engaged in an abuse of process. I am, however, tasked with considering this issue as part of the proper administration of FIPPA. I must ensure that the process used to conduct this consideration is procedurally fair and, if I find that the Applicant has abused FIPPA's processes, I must cogently demonstrate how I reached this conclusion. However, these requirements do not impose a burden of proof on the OIPC.[32]

I adopt the same reasoning in the present proceeding.

Collateral attack on another administrative process

[36] The rule against collateral attack can be summarized as protecting the fairness and integrity of the justice system by preventing duplicative proceedings. It prevents a party from using an institutional detour to attack the validity of an order by seeking a different result from a different forum, rather than through the designated appellate or judicial review route.[33]

[37] The Notice identified 43 individual files opened by the OIPC that were initiated by the Respondent involving the WCB or WCAT since 2016, 18 of which have been opened since 2023,[34] which all appear to be related to an underlying dispute the Respondent has with WCB and WCAT about the administration of his Claims file.

[38] The Respondent contests the characterization of his interactions with WCB and WCAT as an "underlying dispute" as a dispute is impossible with the WCB and WCAT in the same way that a party cannot have a dispute with a court, only with another party, and my characterization of a dispute is actually the Respondent's pursuit of appeals from WCB to WCAT.[35] The Respondent then goes on to make a number of complaints about the WCB's administration of his claims, stating for example that he has not asked the OIPC to review the WCB's decisions, but instead that FIPPA still applies to the actions of the WCB as it does to all tribunals, and that "[*Workers' Compensation Act*] without the FIPPA could easily lead to extremely unjust, opaque decisions."[36]

[39] The Respondent essentially claims that the WCB's handling of his personal information is not in compliance with FIPPA and that FIPPA requires a stricter standard of information practices than how the WCB manages his personal information in the

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[32] Order F25-43, at para 17, citing Dugré v. Canada (Attorney General), 2021 FCA 8 (CanLII) at paras 28-31.
[33] *British Columbia (Workers' Compensation Board) v. Figliola*, 2011 SCC 52 at para 28, citing *Canada (Attorney General) v. TeleZone Inc*., 2010 SCC 62.
[34] Notice, pg. 2, citing a table of cases found at pg. 131 of the Record.
[35] Initial Submission, pg. 1.
[36] *Ibid*, pg. 3.

processing of his claims files. He specifically cites the financial impact, his employability, and injury to reputation as reasons that heighten WCB's obligations towards him to ensure the accuracy of information before it is used in a decision that affects him.[37] Overall, I take the Respondent's argument to be that he is asking the OIPC to step in and enforce FIPPA duties he says the WCB has been ignoring in its administration of his claim.

[40] The Respondent states he is not asking for me to revisit already closed matters, and that is not what this process seeks to do. However, it is clear from the Respondent's submissions on his 43 complaints and requests for review involving WCAT and WCB, that the motivation underlying the Respondent's actions is to challenge decisions by those tribunals involving his claim(s). That is, the relief he is seeking is one that is ultimately a different outcome or process for his claims. He is of the view that FIPPA requires more than what WCB has done or is doing and has attempted to use the processes of FIPPA to force a different outcome from another independent tribunal.

[41] While the Respondent is correct that FIPPA applies to WCB and WCAT, using one administrative tribunal's processes to attack another's is an abuse of process in the form of collateral attack. This is not to say that FIPPA doesn't apply to WCB and WCAT as public bodies, but the real issue for the Respondent here is not *really* the general information management practices of public bodies, or access to information, but rather a dispute about how WCB and WCAT are making their decisions about him, the fairness of that process, and findings of fact made by independent decision-makers. The Respondent has said as much in his submissions to the OIPC:

> My compensation rights are important to me, as the WCB has determined that I cannot work. However, such compensation rights are severely undermined if the WCB is permitted (by the OIPC) to disregard the *FIPPA* and decide its own compliance with the *FIPPA*, itself. Information rights will likely cease to exist in the workers' compensation system, as rights, if such administration is sustained.
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> I submit fair fact-finding at the WCB should occur based upon the known evidence—which cannot mean that the WCB can come to know of evidence and then make it disappear, when such evidence might not align with certain individual officers' views. If we value the rule of law, I do not believe what I say, in this regard, should be controversial.[38]

[42] The Respondent further states:

> In the case of the WCB, the Legislature has granted it the exclusive jurisdiction to decide my claim, according to its statutory mandate. The Legislature has also seen fit to make the WCB (and WCAT) subject to FIPPA, without any exception. Like all

[37] *Ibid*, pg 4.
[38] Record, pg. 19.

> public bodies, these tribunals make decisions that affect people. Their decisions can be very consequential to those that depend on them. I submit both pieces of legislation are operative at all times, and a *WCA* without the *FIPPA* could easily lead to extremely unjust, opaque decisions.[39]

[43] What the Respondent has been doing is using FIPPA's processes to find a different way to review and challenge the decisions of other tribunals in a way that undermines the finality of those decision(s).

[44] This is precisely the "institutional detour" that the rule against collateral attack seeks to protect against. The above quotations demonstrate how the Respondent directly links his actions under FIPPA to his disagreement on how WCB officers make findings of facts in his claim and has specifically tied the use of FIPPA's provisions as a way to challenge the decision-making processes of WCB and WCAT. For the above reasons, I find the Respondent is engaging in a collateral attack of WCB and WCAT processes using FIPPA's and the OIPC's processes.

Abuse of FIPPA's processes

[45] As was outlined to the Respondent in the Clarification, abuse of process is a wide-ranging and flexible concept used by courts and administrative tribunals to control their own processes. In OIPC proceedings, abuse of process generally means using the OIPC processes, whether under FIPPA or PIPA, for improper purposes. There is no set criteria for determining whether an applicant is engaged in an abuse of OIPC processes, but the following indicators have been used to assess whether an applicant or complainant has been abusing FIPPA's processes:

- excessively using FIPPA's processes;
- "springboarding", which occurs when an applicant uses information received in response to an access request or during the OIPC's review processes as fodder for future access requests or complaints to prolong the dispute with a public body;
- creating a complex web of interrelated proceedings;
- attempting to obtain records or information they have already received, particularly when they have already obtained these materials through FIPPA's processes;
- continuing to include arguments in submissions that are irrelevant or unsubstantiated, even after the OIPC has declined to address them or has rejected them outright;
- using FIPPA's processes to vent anger and berate other parties involved in the FIPPA dispute or people involved in an underlying dispute; and
- making unfounded and intemperate allegations of bias, illegality, incapacity, fraud, misrepresentation, conspiracy or tampering, and in particular continuing

[39] Initial Submission, pg.2-3.

> to make these assertions after the OIPC has found them to be unsubstantiated.[40]

[46] In the Notice, I provided the Respondent with three examples of conduct that appeared to be an abuse of process.[41] Those examples, together with the Respondent's submissions will be assessed in turn below.

1. Repeatedly challenging decision-makers' jurisdiction and procedural decisions without basis

[47] The Notice informed the Respondent that his conduct in OIPC File INV-F-24-98596 was being reviewed as a potential abuse of process, citing his repeated voluminous correspondence on the subject of jurisdiction and procedural matters. After the Notice of Complaint was sent to the parties in accordance with OIPC procedures, the Respondent sent six unsolicited letters containing voluminous and substantive submissions challenging OIPC processes.[42]

[48] On April 7, 2025, the Director of Case Review issued a decision to decline to investigate INV-F-25-98596.[43] On April 9, 2025, the Respondent sent a Request for Reconsideration to the Director of Case Review.[44]

[49] The Respondent then sent the following letters:

- April 16, 2025, letter addressed to the Case Review Officer regarding his "jurisdiction of the matter;"[45]
- May 2, 2025, letter addressed to the Case Review Officer regarding his "jurisdiction of the matter;"[46]
- May 8, 2025, letter addressed to the general OIPC mailbox, regarding the Case Review Officer's "handling of this matter given he both assumed jurisdiction and never disposed of it";[47]
- May 8, 2025, letter addressed to an OIPC Investigator regarding his "assumption of jurisdiction;"[48] and
- May 9, 2025, letter addressed to the Case Review Director regarding the Respondent's Request for reconsideration and the "jurisdictional path of the complaint."[49]

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[40] Order F25-43 at para 39.
[41] Notice, pg. 2-3.
[42] Record, pgs 23-42, attachments to Respondent's Request for Reconsideration File INV-F-25-98596.
[43] Record, pg. 3.
[44] *Ibid*, pg. 5.
[45] *Ibid*, pg. 43.
[46] *Ibid*, pg. 123.
[47] *Ibid*, pg. 125.
[48] *Ibid*, pg. 124.
[49] *Ibid*, pg. 126.

[50] The Respondent's brief submission on this topic is that the Notice referred to a decision of the Director of Investigations, and given no decision of the Director of Investigations was made that he is aware of, he cannot answer to this "charge."[50] While this was a regrettable typographical error, as the decision to decline was made by the Director of Case Review, the Respondent still had ample notice of the conduct being reviewed. The Notice referred to the Respondent's "unilateral assertions that a particular decision-maker has retained jurisdiction over a file by virtue of them having made an interim decision."[51] The Respondent was also provided with each of the above-cited letters as an attachment to the Clarification in the form of the Record. In my view, the Respondent had ample opportunity to be heard on this topic.

[51] The Respondent sent multiple letters to different OIPC decision-makers after a final decision had been made to decline his complaint. The arguments he was advancing were complex and involved his unilateral interpretation of which decision-maker was "seized" of his complaint. He sent multiple letters making the same arguments to multiple decision-makers within days of each other. Such behaviour threatens the integrity of OIPC decision-making by attempting to create parallel proceedings. They result in administrative confusion and are resource intensive to respond to. This conduct is also one of the examples of abuse of process listed in the Order F25-43.

[52] I find the Respondent's conduct an abuse of OIPC processes in this matter.

2. **Making extensive post-decision submissions framed as questions or clarifications**

[53] The Notice outlined how the Respondent's lengthy post-decision letters sent to the Investigator in INV-F-23-96897 and INV-F-24-96882 framed as "questions" or "clarifications" could be a further example of an abuse of process.[52]

[54] The Respondent disagrees with the Notice's characterization of his questions as "submissions," characterizing them as brief, and claiming that had he been making submissions, he would have asked for a particular outcome. The Respondent also states that he was merely responding to an invitation by OIPC staff to contact them if he had any questions or concerns.

[55] With respect, I am not persuaded by the Respondent's explanation. For example, in his letter sent April 17, 2025, regarding INV-F-23-96882, the Respondent asks 24 different questions, including several rhetorical questions such as:

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[50] Initial Submission, pg. 4.
[51] Notice, pg. 2.
[52] *Ibid*, pg. 3.

- "14. Did you not consider that I might consider my personal information (evidence) might be confidential during the investigative stage, and as such, s. 22(2)(f) of *FIPPA* might apply?";
- "16. Did I formally request your adjournment while you considered these issues?";
- "17. Did you ever decide these issues I raised or explain how you would behave fairly, in light of the concerns I raised with you, concerning your ability to conduct this matter fairly?".[53]

[56] The Respondent followed up with a further follow-up letter attaching letters and emails from previously closed files and asking further substantive questions of the Investigator.[54]

[57] The letter the Respondent sent in INV-F-23-96897 is similar, with 21 similarly rhetorical and substantive questions asked by the Respondent and running 27 pages in length with attachments from unrelated files and matters.[55]

[58] The Respondent's conduct of framing substantive submissions and challenges to the final decision of OIPC decision-makers is an example of continuing to make submissions on a subject that has already conclusively been decided by the OIPC. It also contributes to the complex web of proceedings the Respondent has woven by including references and documents from previously decided matters. The Respondent may disagree with the outcome of OIPC decisions but continuing to re-litigate them is an abuse of process and threatens the finality of administrative decision-making.

3. **Repeatedly bringing up unfounded allegations of bias and collusion**

[59] The Notice stated that "making unfounded allegations of bias against OIPC decision-makers can amount to an abuse of process, in particular when these claims have been addressed and dismissed as meritless multiple times by decision-makers."[56] The Respondent's repeated focus on the OIPC's use of the same law firm as WCB is cited as an example as a matter that has already been conclusively decided, including by two OIPC adjudicators on two separate occasions.[57]

[60] The Respondent disagrees that the law firm issue has ever been looked at in the way he says it should be looked at, and states OIPC decision-makers have repeatedly ignored his concerns. In support of his assertion, he focusses on the differences in wording used by different OIPC decision-makers (DLA Piper (Canada) LLP, DLA Piper

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[53] Record, pg. 53-57.
[54] *Ibid*, pg. 61-94.
[55] *Ibid*, pg. 96-122.
[56] Notice, pg. 3.
[57] Notice, pg. 3, citing Order F24-65, 2024 BCIPC 75 (CanLII) at paras 5-8; Order F25-07, 2025 BCIPC 7 at paras 14-16; INV-F-23-96897.

North America, DLA Piper Global).[58] He says that he has provided "clear, convincing, and cogent evidence of the reasons for [his] apprehension, based upon the public record and DLA Piper (Canada) LLP's own promotional material."[59]

[61] The Respondent has not convinced me his opportunities to make submissions in two separate OIPC adjudications on this subject, and those decisions' rulings on this matter were flawed. The Respondent continues to make rhetorical and theoretical arguments on this subject despite having had two full opportunities to make his case and have it rejected.

[62] Continuing to make allegations of bias without grounding it in any evidentiary basis is an abuse of process. Making a decision that is adverse to a party is not an indication of bias.

CONCLUSION

[63] For all the reasons above, I find that the Respondent has abused FIPPA's and the OIPC's processes. The next step is to determine what the appropriate remedy is in this instance.

Publication of this Order

[64] I have considered whether it is appropriate for this decision to be published on the OIPC website as would normally be the case for orders. Generally, the OIPC has a practice of anonymizing complainant and applicant's identities in orders as privacy protective measure. For the reasons that follow, I find that the interest in the proper administration of FIPPA outweighs the Respondent's legitimate privacy interests.

[65] As I have found above, the Commissioner has a duty to ensure the proper administration of FIPPA. A critical aspect of the OIPC's ability to fulfill the Commissioner's statutory mandate is to ensure that the OIPC's limited public resources are not misused.[60] But the Commissioner's responsibility extends beyond just his own processes, but to the proper functioning of FIPPA and the access system in the Province as a whole. In that way, the Commissioner also has a duty to protect against abuses of the access system generally. For that reason, I find there is a strong public interest in other public bodies being aware of this decision and knowing that it involves this individual. A public body who experiences conduct consistent with the conduct found to be an abuse of process can use these findings to assess whether conduct they are facing rises to the level of an abuse of process and take steps necessary to ensure efficient use of limited public resources.[61]

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[58] Initial Submission, pg. 6.
[59] *Ibid,* pg. 7.
[60] Decision F25-02, 2025 BCIPC 63 (CanLII) at para 34.
[61] In the case of an access request, this would take the form of an application to disregard under s.43 of FIPPA, which would be considered on the merits.

[66] In coming to this conclusion, I have considered the Respondent's privacy interests in remaining anonymous and weighed them against the public interest described above. The Respondent has specifically referenced potential negative impacts to his earning capacity and his reputation because of this and the underlying matters involving WCAT and WCB.[62] I have also considered—but do not consider it determinative—that the Respondent has filed three petitions for judicial review as described above, each seeking orders involving this proceeding meaning all of the information considered in this decision is either already or will soon become a matter of public record.

[67] I therefore find that the public interest in the Commissioner's duty under FIPPA outweighs the Respondent's privacy interests in anonymity.

Remedy

[68] Having found that the Respondent has abused both OIPC and FIPPA's processes, I must now consider what the appropriate remedy is. In the Notice, the Respondent was provided with an opportunity to be heard on what remedy would be appropriate if an abuse of process was found. In response, the Respondent simply stated that the present proceeding is itself an abuse of process and collateral attack and that no response was necessary from him on this subject.[63]

[69] I am mindful of the purposes of FIPPA and of the responsibility of the Commissioner to both oversee the administration of FIPPA as a whole, but also to ensure that the limited public resources available to such administration are used fairly.

[70] The Respondent has consumed a wholly disproportionate amount of those scarce resources through his procedural actions. For each additional file opened by the OIPC that is initiated by the Respondent, another member of the public must wait to have their matter heard. FIPPA has provided the Commissioner with the discretionary power to determine what can be reviewed, and implicit in that power is the recognition that the rights conferred on individuals under FIPPA are not unlimited. In this case, the Respondent's abuse of his rights under FIPPA has resulted in others' rights being frustrated in the form of increased delays to access OIPC services. It also means OIPC staff have less time to spend working on other responsibilities of the Commissioner under FIPPA, which includes systemic issues, public education, and strategic initiatives.

[71] When a litigant is found to be abusing the court's processes, they are declared a vexatious litigant and generally subject to restrictions on their ability to initiate new proceedings with the court.

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[62] Initial Submission, pg. 4.
[63] Further Submission, pg. 5.

[72] In the present circumstances, I am not convinced a total restriction is necessary for the respondent at this time but do think restrictions are necessary to protect against further abuses of process. For that reason, under s. 42 of FIPPA, I am imposing the following restrictions on the Respondent:

1. Marcus Ooms must seek leave from the OIPC before initiating any complaint or request for review (a "Proceeding") under the *Freedom of Information and Protection of Privacy Act* or the *Personal Information Protection Act*, either on his own behalf or on behalf of any other person.
2. To commence a Proceeding, Marcus Ooms must submit an application for leave to info@oipc.bc.ca that is no more than one page including attachments describing the issue he would like to have heard.
3. In considering an application for leave, the OIPC decision-maker will consider any matter involving the WCB or WCAT to be an abuse of process by default, made for an improper purpose, and subject to being declined under the OIPC's Policy, Procedures and Criteria for Declining to Investigate.[64]
4. In considering any other matter that does not involve the WCB or WCAT, the OIPC decision-maker may but is not required to consider whether to grant leave.
5. At any given time, Marcus Ooms may only have one (1) file open before the OIPC. For clarity, this includes any matter where the OIPC is a party in any proceeding, including but not limited to any open matter before a court or tribunal.
6. If a matter is opened, unless specifically granted permission by the OIPC decision-maker with conduct over that matter, Marcus Ooms is subject to a correspondence limit of maximum five (5) pages, including attachments.

August 5, 2025.

ORIGINAL SIGNED BY

Ethan Plato, Legal Counsel

OIPC File No: F25-00258

[64] https://www.oipc.bc.ca/media/16799/declining-policy-for-website.pdf.