



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

Order F25-77

MINISTRY OF FINANCE, PUBLIC SERVICE AGENCY

Rene Kimmett
Adjudicator

October 7, 2025

CanLII Cite: 2025 BCIPC 90
Quicklaw Cite: [2025] B.C.I.P.C.D. No. 90

Summary: The Public Service Agency (PSA) withheld information from an applicant under ss. 14 (solicitor-client privilege) and 22(1) (harm to third-party personal privacy) of the *Freedom of Information and Protection of Privacy Act*. The adjudicator found that the PSA was authorized to withhold all the information in dispute under s. 14 and most, but not all, of the information in dispute under s. 22(1). The adjudicator ordered the PSA to give the applicant access to the information it was not required to withhold.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, ss. 14, 22(1), 22(2)(f), 22(3)(a), 22(3)(d), 22(3)(g), 22(4)(e), 22(5).

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant (Applicant) made an access request to the Public Service Agency (PSA), which is an agency within the Ministry of Finance. The access request was for all records related to the Applicant's employment or potential employment with the provincial government from 1992 to the present.

[2] The PSA gave the Applicant some records, but partially or entirely withheld other records under ss. 14 (solicitor-client privilege), 15(1)(l) (harm to the security of property or a system), and 22(1) (harm to third-party personal privacy) of FIPPA.¹

[3] The Applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the PSA's decision to withhold information responsive to his access request.

¹ From this point forward, whenever I refer to section numbers, I am referring to sections of FIPPA unless otherwise specified.

[4] The OIPC engaged the parties in mediation, but it did not resolve the issues in dispute, and the matter proceeded to this inquiry.

PRELIMINARY ISSUES

Sections not at issue

[5] The PSA withheld the unique usernames given to provincial government employees. The PSA refers to these usernames as “IDIRs”. The PSA withheld the IDIRs under s. 15(1)(l). The IDIRs were the only information withheld under s. 15(1)(l). The PSA later asked the Applicant whether he would consent to the severance of the IDIRs. The Applicant agreed provided it would not prevent him from obtaining his own personal information.² I have reviewed the records and find that severing the IDIRs would not prevent the Applicant from obtaining his own personal information. As the Applicant is no longer seeking access to the IDIRs and they were the only information withheld under s. 15(1)(l), I find that s. 15(1)(l) is not at issue in this inquiry.

[6] Early in the inquiry, the PSA asked to add s. 13(1) (policy advice or recommendations) to a couple of pages of records already withheld under s. 22(1).³ The PSA then clarified that it had mistakenly applied s. 13(1) to these records and that it is not relying on s. 13(1).⁴ Based on this information, I find that s. 13(1) is not at issue in this inquiry.

Applicant’s request to other public bodies

[7] The Applicant says he made his access request to the PSA and to six ministries where he previously worked.

[8] I can see that the Applicant made his access request to Information Access Operations (IAO) within the Ministry of Citizens’ Services. The IAO assists government ministries and agencies with processing access requests. If the Applicant has not received a response to his access request from the ministries he identified, he should follow-up with IAO.

[9] For clarity, the only decision under review in this inquiry is the PSA’s decision to withhold information responsive to the Applicant’s access request. There are no other public bodies participating in this inquiry.

² Applicant’s emails dated April 17, 2025 and April 19, 2025.

³ PSA’s email dated January 8, 2025.

⁴ PSA’s initial submission at para 10.

Applicant's inadequate search complaint

[10] The Applicant asks me to investigate and determine if the package of documents he received in response to his access request is complete and includes all records containing his personal information.⁵

[11] This issue was not included in the Fact Report or the Notice of Inquiry. The Notice of Inquiry states that parties may not add new issues without the OIPC's prior consent. The Applicant has not sought the OIPC's permission to add this issue to the inquiry or provided an explanation for why he did not raise it earlier in the OIPC's process. For these reasons, I decline to add this issue to this inquiry.

[12] If the Applicant has concerns about the adequacy of the PSA's search for records responsive to his access request, he may raise those concerns directly with the PSA and give it the opportunity to respond to those concerns. If he is unsatisfied with the PSA's response, he may make a complaint to the OIPC.

ISSUES AND BURDEN OF PROOF

[13] The issues I must decide in this inquiry are as follows:

- Is the PSA authorized to refuse access to the records in dispute under s. 14?
- Is the PSA required to refuse access to the records, or portions of the records, in dispute under s. 22(1) of FIPPA?

[14] The PSA has the burden of proving that the Applicant has no right of access to the records withheld under s. 14⁶ and that the information withheld under s. 22(1) is personal information.⁷

[15] The Applicant has the burden of proving that disclosure of personal information withheld under s. 22(1) would not be an unreasonable invasion of third-party personal privacy.⁸

⁵ Applicant's submission at page 1, para 6. The Applicant's concerns relate to s. 6(1), which requires a public body to "make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely."

⁶ FIPPA, s. 57(1).

⁷ Order 03-41, 2003 CanLII 49220 (BC IPC) at paras 9-11.

⁸ FIPPA, s. 57(2).

DISCUSSION

Background⁹

[16] The PSA handles employment and labour issues on behalf of the Government. The PSA represents the Government when a grievance is filed by the BC General Employees' Union (BCGEU) on behalf of a Government employee.

[17] The Applicant worked for the Government in various roles from 1993 to 2009 and was a member of the BCGEU.

[18] The Applicant was suspended and later terminated by the Government. At that time, the Applicant worked for the Environmental Assessment Office (EAO) within the Ministry of the Environment. The BCGEU filed grievances about the Applicant's suspension and termination. The Government and the BCGEU negotiated a Grievance Settlement Agreement. As part of this agreement, the BCGEU withdrew the Applicant's grievances.

Records at issue

[19] The records package responsive to the Applicant's access request is 903 pages. Many of the records are duplicated in the package. The PSA disclosed most of the information in this package but has withheld some information under ss. 14 and 22(1). The information in dispute appears in emails, letters, notes, and other documents related to the Applicant's employment with EAO.

Solicitor-client privilege – s. 14

[20] Section 14 says that the head of a public body may refuse to disclose information that is subject to solicitor-client privilege.

Sufficiency of evidence to substantiate the s. 14 claim

[21] The PSA did not provide any of the information it withheld under s. 14 for me to review. Instead, it provided affidavit evidence from its Director of Labour Relations (Director) and a lawyer (Lawyer) with the Legal Services Branch of the Ministry of Attorney General (LSB).

[22] Neither the Director nor Lawyer were involved in the creation of the records in dispute. However, the PSA submits that their evidence is the best available evidence because the lawyer who gave the legal advice and the person who provided instructions to the lawyer, in 2009 and 2010, no longer work with or for the Government.

⁹ The information in this section comes from the PSA and was not disputed by the Applicant.

[23] I am satisfied that both the Director and Lawyer reviewed all the records and, therefore, have direct knowledge of the content of the records in dispute. I also find that they have professional experience that would give them insight into the context in which the records were created. The Director has been in her role for two years and leads a team that manages grievances filed by the BCGEU. She has worked with the PSA, in various roles, since 2003.¹⁰ The Lawyer has worked for the LSB since 2011 and provides legal services to the PSA. The Lawyer's sworn affidavit establishes that she is a practicing lawyer and an officer of the court with a professional duty to ensure that privilege is properly claimed.¹¹ Her evidence includes a description of each of the records containing the date and parties involved and an explanation of the grounds on which privilege is claimed.

[24] I find that I have sufficient evidence to decide whether the records withheld under s. 14 are subject to solicitor-client privilege without ordering production of the records for my review.¹²

Solicitor-client privilege

[25] For information to be protected by solicitor-client privilege it must be:

- a communication between a solicitor and client (or their agent);
- made for the purpose of seeking or providing legal advice, opinion or analysis; and
- intended by the solicitor and client to be confidential.¹³

[26] Not every communication between a solicitor and their client is privileged, but if the conditions above are satisfied, then solicitor-client privilege applies to the communication.¹⁴

[27] Courts have found that solicitor-client privilege also applies to information that, if disclosed, would reveal, or allow an accurate inference to be made about,

¹⁰ Director's Affidavit #1 at paras 4-5.

¹¹ Lawyer's Affidavit #1 at paras 1 and 2.

¹² While s. 44(1)(b) authorizes me, as the Commissioner's delegate, to order production of records to review during the inquiry, due to the importance of solicitor-client privilege to the proper functioning of the legal system, I would only do so when necessary to fairly decide the issue. Order F14-19, 2014 BCIPC 16 at para 10; *Canada (Privacy Commissioner) v Blood Tribe Department of Health*, 2008 SCC 44 at para 17; *Alberta (Information and Privacy Commissioner) v University of Calgary*, 2016 SCC 53 at para 68.

¹³ *Solosky v. The Queen*, 1979 CanLII 9 (SCC), [1980] 1 SCR 821 at 837.

¹⁴ *Ibid* at 829.

privileged information.¹⁵ Further, privilege extends beyond the actual requesting or giving of legal advice to the “continuum of communications” between a lawyer and client, which includes the necessary exchange of information for the purpose of providing legal advice.¹⁶

Parties’ submissions – s. 14

[28] Under s. 14, the PSA is entirely withholding:

- seven email chains between an external legal counsel (External Legal Counsel) and PSA employees. Some of these email chains also include EAO employees.
- seven email chains between PSA employees and, in some instances, also EAO employees.
- three sets of handwritten notes documenting discussions with the External Legal Counsel.¹⁷

[29] The Applicant does not make specific submissions about the application of s. 14 to the information in dispute.

[30] The PSA submits that the Government, as represented by PSA and EAO employees, was in a solicitor-client relationship with the External Legal Counsel.¹⁸ The Lawyer states that a PSA employee retained the External Legal Counsel to represent the Government and provide legal advice related to the Applicant’s grievances.¹⁹

[31] The Lawyer states that most of the records withheld are written communications between the External Legal Counsel and PSA and EAO employees or notes documenting oral communications between these individuals.²⁰ She states that some of the records are email communications between PSA and EAO employees discussing the legal advice provided by the External Legal Counsel.²¹ She states that all the communications were related to the seeking, giving or formulating of legal advice.²²

¹⁵ *Ibid* at 834.

¹⁶ *Huang v Silvercorp Metals Inc.*, 2017 BCSC 795 at para 83 and *Camp Development Corporation v. South Coast Greater Vancouver Transportation Authority*, 2011 BCSC 88 at para 42.

¹⁷ Lawyer’s Affidavit #1, Table of Records.

¹⁸ PSA’s initial submission at paras 55-60 and 75.

¹⁹ Lawyer’s Affidavit #1 at para 14.

²⁰ *Ibid*.

²¹ *Ibid*.

²² *Ibid*.

[32] The PSA submits that the advice received from legal counsel is generally understood to be confidential and is not to be shared with any person or entity outside of Government. It submits that each of the External Legal Counsel's emails contain a confidentiality and privilege disclaimer.²³ The Lawyer says she believes, based on her experience providing the PSA with legal advice, that the participants in the emails and the notetakers would have understood the emails and notes to be confidential.²⁴

Analysis – s. 14

[33] Past OIPC orders have accepted that, in certain circumstances, multiple government entities can collectively be considered a lawyer's client.²⁵ Here, I accept the PSA's evidence that, when a Government employee files a grievance, the PSA works with the ministry or agency where the employee works (in this case the EAO) as part of the grievance process. In this case, the PSA and EAO shared a single goal of resolving the Applicant's grievances; therefore, I find that the Government, as represented by the PSA and the EAO, was the External Legal Counsel's client.

[34] Based on the PSA's evidence, I find that the seven email chains between the External Legal Counsel and the Government employees, in the PSA and the EAO, were communications between a solicitor and their client made for the purpose of seeking or providing legal advice and were intended, by all involved, to be confidential. The information in these records is protected by solicitor-client privilege.

[35] I also find that the seven email chains between the Government employees and the three sets of handwritten notes are internal communications that are protected by solicitor-client privilege. I am satisfied that these emails and notes were intended to be confidential and that disclosure of this information would reveal, or allow an accurate inference to be made about, privileged information.

[36] For the reasons given above, I find that all of the information in the records withheld by the PSA under s. 14 would reveal, directly or by inference, information that is subject to solicitor-client privilege. The PSA is authorized to withhold this information under s. 14.

²³ PSA's initial submission at para 81.

²⁴ Lawyer's Affidavit #1 at para 20.

²⁵ Order F20-18, 2020 BCIPC 20 (CanLII) at paras 37-41; Order F23-19, 2023 BCIPC 22 (CanLII) at paras 44-48; Order F23-51, 2023 BCIPC 59 (CanLII) at paras 27-45.

Unreasonable invasion of third-party personal privacy – s. 22

[37] Section 22(1) requires a public body to refuse to disclose personal information if its disclosure would unreasonably invade a third party's personal privacy. A third party is any person other than the Applicant and a public body.²⁶

[38] There are four steps in the s. 22(1) analysis and I will apply each step under the subheadings that follow.²⁷

Section 22(1) – personal information

[39] The first step in the s. 22(1) analysis is to determine if the information in dispute is personal information. Personal information is defined in FIPPA as “recorded information about an identifiable individual other than contact information”.²⁸ Information is about an identifiable individual when it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.²⁹

[40] Contact information is defined as “information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual”.³⁰ Whether information is “contact information” depends on the context in which it appears.³¹

[41] The PSA submits that the information in dispute is personal information because it is about identifiable individuals and is not contact information. The Applicant does not make submissions about whether the information in dispute is personal information.

[42] The information the PSA has withheld under s. 22(1) can be summarized as follows:

- information related to the witnesses in the Applicant's grievance proceedings, including their names, positions, phone numbers, emails, and the concerns they raised during the Applicant's employment with the

²⁶ FIPPA, Schedule 1.

²⁷ Order F15-03, 2015 BCIPC 3 (CanLII) at para 58.

²⁸ FIPPA, Schedule 1.

²⁹ Order F05-30, 2005 CanLII 32547 (BC IPC) at para 35.

³⁰ FIPPA, Schedule 1.

³¹ Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.

- EAO.³² I will refer to the emails and notes, in which these individuals raise their concerns about the Applicant, as the Witness Statements.
- information in a decision briefing document recommending the Applicant's dismissal (Decision Briefing Document).
 - information in a behavioural assessment of the Applicant (Behavioural Assessment).³³
 - information in a threat analysis conducted by the PSA about the Applicant (Threat Analysis).³⁴
 - information about third party employees, including information about them taking leave³⁵ and moving offices,³⁶ and information about their contract extensions,³⁷ pay,³⁸ and grievances.³⁹
 - the Personal Health Number (PHN),⁴⁰ student number,⁴¹ and birth certificate⁴² of a third party.
 - two cellphone numbers.⁴³

[43] For the reasons that follow, I find that some of the above information is not personal information.

[44] There is template language in both the Threat Analysis and Behavioural Assessment. In the Threat Analysis, this language is a description of how the threat analysis customarily proceeds and what methodology is used. In the Behavioural Assessment this language is the questions asked as part of the assessment and information about what to do if the person completing the form anticipates a risk of violence. None of this information is about an identifiable

³² Records package at pages 151, 152, 163, 202-204, 205-206, 224-229, 233-239, 242, 256, 257, 260, 261-267, 288-290, 293-294, 300, 314-316, 317-319, 320-323, 324, 325, 352-355, 356, 357, 358-360, 361-363.

³³ Records package at pages 295-298 and 348-351.

³⁴ Records package at pages 207-208.

³⁵ Records package at pages 186, 188, 231, and 273.

³⁶ Records package at pages 741.

³⁷ Records package at pages 694, and 752.

³⁸ Records package at pages 704.

³⁹ Records package at pages 145 and 198.

⁴⁰ Records package at pages 446, 753, 757, and 759.

⁴¹ Records package at page 446.

⁴² Records package at page 755.

⁴³ Records package at pages 151 and 186.

individual and, therefore, it is not personal information. This information cannot be withheld under s. 22(1).

[45] In the Threat Analysis, the PSA has withheld the names, titles, and business phone numbers of two PSA employees who conducted the analysis.⁴⁴ Given its context, I conclude this information appears in this record for the purpose of enabling these employees to be contacted in the event there are questions about the analysis. I find the names, titles, and phone numbers of these employees, as they appear in this document, are contact information. This information is not personal information and cannot be withheld under s. 22(1).

[46] However, I find that the rest of the information withheld under s. 22 is personal information because it is about identifiable individuals and it is not contact information. This includes the two personal cellphone numbers. Public body employees provided these numbers to specific colleagues so that they could be contacted about specific work-related issues outside work hours. I am satisfied, based on the content of the records, that these employees did not typically use or widely share their personal cellphone numbers in the ordinary course of conducting business.⁴⁵ Based on this context, I find that these cellphone numbers are the employee's personal information and are not contact information.

Section 22(4) – not an unreasonable invasion of personal privacy

[46] The second step in the s. 22(1) analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(4). Section 22(4) sets out circumstances where disclosure of personal information is not an unreasonable invasion of third-party personal privacy.

[47] The Ministry submits that none of the s. 22(4) categories apply to the information in dispute. The Applicant does not comment on whether any category under s. 22(4) applies to the information in dispute.

[48] I have reviewed the personal information in the records and find that some information in the Threat Analysis falls under s. 22(4)(e).⁴⁶

[49] Section 22(4)(e) says that disclosure of personal information would not be an unreasonable invasion of privacy where the information is about a third party's position, functions, or remuneration as an officer or employee of a public body. Past orders have found that s. 22(4)(e) applies to information that relates to the

⁴⁴ Records package at page 208.

⁴⁵ For similar reasoning see: Order F24-09, 2024 BCIPC 12 (CanLII) at para 32; Order F23-43, 2023 BCIPC 51 at para 60; Order F17-39, 2017 BCIPC 43 at para 76

⁴⁶ I have considered whether any of the other categories under s. 22(4) apply to the information in dispute and find that they do not.

job duties performed in the normal course of their work, including objective, factual information about what a public body employee said or did while discharging their job duties.⁴⁷

[50] I find that the Threat Analysis contains the PSA employees' professional opinions, which is personal information about what they did while discharging their job duties in the normal course of their work. These employees were not the Applicant's coworkers and were not witnesses or complainants in the workplace investigation concerning the Applicant. I find that this personal information relates to their position and functions as public body employees, under s. 22(4)(e) and, therefore, cannot be withheld under s. 22(1).

Section 22(3) – presumed an unreasonable invasion of personal privacy

[51] The third step in the s. 22(1) analysis is to determine whether any of the presumptions listed under s. 22(3) apply to the personal information in dispute. If one or more apply, then disclosure of that personal information is presumed to be an unreasonable invasion of personal privacy.

[52] The PSA submits that ss. 22(3)(a), 22(3)(d), and 22(3)(g) apply to some of the information in dispute. The Applicant does not make submissions about whether any category under s. 22(3) applies to the information in dispute.⁴⁸

Section 22(3)(a) – medical history

[53] Section 22(3)(a) says that disclosure of a third party's personal information is presumed to be an unreasonable invasion of privacy where the information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment, or evaluation.

[54] Past OIPC orders have found that a person's Personal Health Number (PHN) is information that relates to their medical history.⁴⁹ The PSA submits that s. 22(3)(a) applies to the PHNs of third parties that appear in the records. There is one PHN in the records that does not belong to the Applicant.⁵⁰ I find that disclosure of this PHN is presumed to be an unreasonable invasion of this third party's personal privacy.

⁴⁷ Order 01-53, 2001 CanLII 21607 at para 40. Order F18-38, 2018 BCIPC 41 (CanLII) at para 70.

⁴⁸ I have considered whether any of the other categories under s. 22(3) apply to the information in dispute and find that they do not.

⁴⁹ Order F21-47, 2021 BCIPC 55 at paras 14 and 46.

⁵⁰ Records package at pages 446, 753, 757, and 759.

Section 22(3)(d) – educational or employment history

[55] Section 22(3)(d) says that disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where the information relates to the third party's employment, occupational, or educational history.

[56] The records contain the student number of a third party.⁵¹ I find that disclosure of this information is presumed to be an unreasonable invasion of this third party's personal privacy.⁵²

[57] The information in dispute includes details about third-party employees taking leave, moving offices, having their contracts extended, being paid over a specific period, and filing grievances against the Government. I find that all of this information is related to their employment history.⁵³ Disclosure of this information is, therefore, presumed to be an unreasonable invasion of these third parties' personal privacy.

[58] The withheld information also includes the names and positions of employees, as well as the concerns they raised about the Applicant during a workplace investigation. This information is sensitive information about a third party's opinions given in the context of a workplace investigation. I find this information relates to these third parties' employment history.⁵⁴ Disclosure of this information is, therefore, presumed to be an unreasonable invasion of these third parties' personal privacy. This finding applies to the Witness Statements themselves and some information that describes the witnesses' concerns, contained in the Behavioural Assessment, the Decision Briefing Note, and the Threat Analysis.

Section 22(3)(g) – personal evaluation

[59] Section 22(3)(g) says that disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where it consists of personal recommendations or evaluations, character references or personnel evaluations about the third party.

[60] The PSA submits s. 22(3)(g) applies some of the information in the records because portions of the Decision Briefing Note, Threat Analysis, and the

⁵¹ Records package at page 446.

⁵² Order F15-29, 2015 BCIPC 32 (CanLII) at para 25.

⁵³ Order F23-56, 2023 BCIPC 65 (CanLII) at paras 70-71.

⁵⁴ Order F17-43, 2017 BCIPC 47 (CanLII) at para 61; Order 01-53, 2001 CanLII 21607 (BC IPC) at para 33.

Behavioural Assessment “contain evaluations of the Applicant’s behaviour by individuals assigned to investigate the Applicant’s workplace behaviour.”⁵⁵

[61] In order for s. 22(3)(g) to apply the evaluation needs to be “about the third party”. Here, the evaluations are about the Applicant. For this reason, I find that s.22(3)(g) does not apply to any of the information in dispute.

Section 22(2) – all relevant circumstances

[62] The final step in the s. 22(1) analysis is to consider all relevant circumstances, including those listed in s. 22(2), to determine whether the disclosure of personal information would be an unreasonable invasion of a third party’s personal privacy. It is at this step that the Applicant may rebut the presumptions that apply to the records under ss. 22(3)(a) and 22(3)(d).

[63] The PSA makes submissions about s. 22(2)(a), 22(2)(c), 22(2)(f), the sensitivity of the personal information in dispute, the Applicant’s knowledge of the information in dispute and the fact that some of the information in dispute is the Applicant’s personal information. The Applicant does not make submissions about any relevant circumstances.⁵⁶

Subject the activities of a public body to public scrutiny – s. 22(2)(a)

[64] Section 22(2)(a) requires a public body to consider whether disclosure is desirable for the purpose of subjecting the activities of a public body to public scrutiny. The PSA submits that disclosure of the records would not add anything to the public’s understanding of the PSA’s activities and would subject the witnesses involved in the workplace investigation, and not the PSA, to public scrutiny.⁵⁷ Based on my review of the records, I accept this argument and find s. 22(2)(a) does not apply in the circumstances.⁵⁸

Fair determination of the applicant’s rights – s. 22(2)(c)

[65] Section 22(2)(c) requires a public body to consider whether the personal information is relevant to a fair determination of the applicant’s rights. In the absence of a submission from the Applicant about how the records relate to a fair determination of his rights, I find that s. 22(2)(c) does not weigh in favour of disclosure.

⁵⁵ PSA’s initial submission at para 135.

⁵⁶ For clarity, I have considered whether there are circumstances, other than those raised by the parties, that are relevant to the information in dispute and find that there are none.

⁵⁷ PSA’s initial submission at para 139.

⁵⁸ Order F16-14, 2016 BCIPC 16 (CanLII) at para 40; Order F24-48, 2024 BCIPC 56 (CanLII).

Supplied in confidence – s. 22(2)(f)

[66] Section 22(2)(f) asks whether the personal information was supplied in confidence. If it was, this factor weighs in favour of withholding the personal information. The PSA submits that the Witness Statements were supplied in confidence and provides evidence supporting this submission.⁵⁹ I am persuaded that the Witnesses Statements, which were provided in the context of a workplace investigation and are marked confidential, were supplied with a reasonable expectation of confidentiality. This factor weighs in favour of withholding the witnesses' concerns about the Applicant contained in the Witness Statements and repeated in the Behavioural Assessment, the Decision Briefing Note, and the Threat Analysis.

Sensitivity of the personal information

[67] Previous OIPC orders have considered the sensitivity of information as a relevant circumstance. Where information is sensitive, this is a circumstance weighing in favour of withholding the information.⁶⁰ Conversely, where information is innocuous and not sensitive in nature, then this factor may weigh in favour of disclosure.⁶¹ I find that the personal information contained in the Witness Statements is sensitive because it contains third parties' opinions and feelings about engaging with the Applicant in difficult situations. This factor weighs in favour of withholding the witnesses' concerns about the Applicant contained in the Witness Statements and repeated in the Behavioural Assessment, the Decision Briefing Note, and the Threat Analysis.

Applicant's knowledge

[68] Past orders consistently find that an applicant's knowledge of the information in dispute weighs in favour of disclosing that information.⁶² The Applicant has not made submissions on this subject and, therefore, I do not know what personal information in the records the Applicant already knows. For this reason, I find that the Applicant's existing knowledge of the information in dispute, such as it may be, does not weigh in favour of disclosure.

Applicant's personal information

[69] Previous OIPC decisions have found that the fact that a record contains an applicant's own personal information weighs in favour of disclosure. However, the weight of this factor is limited where the information in dispute is

⁵⁹ PSA's initial submission at para 148; Director's Affidavit #1 at para 14-15.

⁶⁰ Order F19-15, 2019 BCIPC 17 at para 99.

⁶¹ Order F16-52, 2016 BCIPC 58 at para 91.

⁶² Order 01-30, 2001 CanLII 21584 (BC IPC) at para 20; Order F05-34, 2005 CanLII 39588 (BC IPC) at para 57; Order F17-01, 2017 BCIPC 1 at paras 70-74.

simultaneously the applicant's personal information and the personal information of other individuals.⁶³ The personal information in the Witness Statements is about both the Applicant and the witnesses. I find the fact that some of this information is the Applicant's personal information weighs slightly in favour of disclosure. The rest of the personal information in dispute is solely about third parties. None of the personal information is solely about the Applicant.

Conclusion – s. 22

[70] I found above that most of the withheld information is personal information. However, I found that the template language and the names, titles, and business phone numbers of the PSA employees are not personal information. This information cannot be withheld under s. 22(1).

[71] I found that s. 22(4)(e) applied to the PSA employees' personal information in the Threat Analysis. This personal information cannot be withheld under s. 22(1).

[72] I found that s. 22(3)(a) applied to the PHN and that s. 22(3)(d) applied to the student number, the witnesses' names and statements, and information about the third-party employees taking leave, moving offices, having their contracts extended, being paid over a specific period, and filing grievances against the Government. Disclosure of this information is presumed to be an unreasonable invasion of these third parties' personal privacy.

[73] I found the fact that the Witness Statements contained the Applicant's personal information only weighed slightly in favour of disclosure because this personal information was combined with the personal information of the witnesses. I found that no other factors weighed in favour of disclosing the personal information in dispute.

[74] Based on the above, I find that, other than the personal information that falls under s. 22(4)(e), the PSA is required to withhold all of the personal information in dispute under s. 22(1).

Section 22(5) – summary of personal information supplied in confidence

[75] Section 22(5) requires a public body to provide a summary of the Applicant's personal information in certain circumstances. It reads, in part:

On refusing, under this section, to disclose personal information supplied in confidence about an applicant, the head of the public body must give the applicant a summary of the information unless

⁶³ Order F24-48, 2024 BCIPC 56 at para 146.

- (a) the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information, [...]

[76] In my view, given the Applicant's knowledge of the workplace investigations and the surrounding circumstances, the information that third parties supplied in confidence about the Applicant cannot be meaningfully summarized without disclosing the identities of the third parties. Therefore, I find that s. 22(5) does not require the PSA to provide a summary of that information.

CONCLUSION

[77] For the reasons given above, I make the following order under s. 58 of FIPPA:

1. The PSA is authorized to withhold the information in dispute under s. 14.
2. Subject to item #3 below, the PSA is required to refuse access to the information in dispute under s. 22(1).
3. The PSA is required to give the Applicant access to the information I have determined, in this order, it is not required to withhold under s. 22(1). I have highlighted this information in green in the records package that I will provide to the PSA along with this order. See records package at pages 207-208 and 295-298.
4. The PSA is required to copy the OIPC registrar of inquiries on the cover letter and records it sends to the Applicant in compliance with #3 above.

[78] Pursuant to s. 59(1) of FIPPA, the PSA is required to comply with this order by **November 20, 2025**.

October 7, 2025

ORIGINAL SIGNED BY

Rene Kimmett, Adjudicator

OIPC File No.: F23-92864