

Order F26-66

MINISTRY OF SOCIAL DEVELOPMENT AND POVERTY REDUCTION

D. Hans Hwang
Adjudicator

July 28, 2026

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Summary: An individual (complainant) complained that the Ministry of Social Development and Poverty Reduction (Ministry) collected their personal information contrary to ss. 26(a) and 26(c) of the *Freedom of Information and Protection of Privacy Act* (FIPPA). The adjudicator found that the Ministry collected the complainant's personal information as expressly authorized by s. 10 of the *Employment and Assistance for Persons with Disabilities Act*. Consequently, the adjudicator found that s. 26(a) of FIPPA authorized the Ministry's collection of the complainant's personal information.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, s. 26(a), 26(c), and Schedule 1 (definitions of "personal information" and "contact information"). *Employment Assistance for Persons with Disabilities Act*, SBC 2002, c 41, s. 10. *Employment Assistance for Persons with Disabilities Regulation*, BC Reg. 21/2026, s. 10. *Interpretation Act*, RSBC 1996, c. 238, s. 1 (definitions of "Act", "enactment", and "regulation").

INTRODUCTION

[1] An individual (complainant) made a complaint that the Ministry of Social Development and Poverty Reduction (Ministry) collected their personal information contrary to Part 3 of the *Freedom of Information and Protection of Privacy Act* (FIPPA).¹

[2] The complaint relates to the Ministry's review of the complainant's eligibility for disability assistance under the *Employment Assistance for Persons with Disabilities Act* (EAPWDA).² During the review, the Ministry:

¹ All sectional references refer to FIPPA unless otherwise stated.

² SBC 2002, c 41, s. 10.

- required the complainant to provide it with his personal information;
- required the complainant provide consent to the Ministry collecting the complainant's personal information from a third party; and
- collected the complainant's personal information.

[3] Mediation by the OIPC did not resolve the complaint, and the matter proceeded to inquiry. Both parties provided submissions in this inquiry.

Preliminary Issue – Matters outside the Commissioner's jurisdiction

[4] The complainant raises concerns about the fairness of the Ministry's eligibility review process.³ Also, the complainant submits that the Ministry's disability assistance program is inconsistent with other provincial programs to support people facing hardship.⁴

[5] As an administrative decision-maker, I may only act within the jurisdiction granted to me by the applicable legislation which in this case is FIPPA. The complainant has not specified, and I find that I do not have, the statutory authority to make findings in this inquiry about the fairness and consistency of the Ministry's disability assistance program and eligibility review process. For these reasons, although I have read and considered the complainant's entire submissions, I will only comment on the portions that are relevant to the issues I will decide in this inquiry.

ISSUES AND BURDEN OF PROOF

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

1. Is the Ministry authorized to collect the complainant's personal information under s. 26(a) because that collection is expressly authorized under an Act?
2. Is the Ministry authorized to collect the complainant's personal information under s. 26(c) because the complainant's personal information relates directly to and is necessary for a program or activity of the Ministry?

[7] Section 57 sets out the burden of proof for some types of inquiries. However, FIPPA does not say who has the burden of proof regarding these issues. Past OIPC orders have noted that in the absence of a statutory burden of

³ Complainant's reply submission at paras 51 and 55.

⁴ Complainant's reply submission at paras 51-52.

proof, it is incumbent upon each party to provide evidence and argument to support their position.⁵ I will take the same approach in this matter.

DISCUSSION

Background⁶

[8] The Ministry administers provincial assistance for persons with disabilities under EAPWDA which is designed to help individuals and families meet their basic needs (Disability Assistance). Depending on a recipient's annual earnings, the Ministry may provide either financial support and medical services benefits (Support and Medical Benefits) or medical services benefits without financial support (Medical Only Benefits).

[9] The complainant is designated as a person with disabilities and has received Support and Medical Benefits since 2006.

[10] In 2022, the complainant was injured in a motor vehicle accident and received emergency treatment and rehabilitation for the injury. While receiving treatment, the complainant was on leave from work and received income replacement from their workplace benefit plan and motor vehicle insurance (Income Replacement). Receiving the Income Replacement caused the complainant to exceed the maximum annual earning threshold for the Support and Medical Benefits. As a result, the Ministry terminated the Support and Medical Benefits and provided the Medical Only Benefits to the complainant instead.

[11] In early 2024, the complainant returned to work and the Income Replacement ceased. The complainant requested the Ministry return them to the Support and Medical Benefits. In or around April 2024, the Ministry formally reviewed the complainant's request to determine whether the complainant is eligible for the Support and Medical Benefits (Eligibility Review).

Information at issue

[12] During the Eligibility Review, the Ministry requested the complainant provide various financial information.⁷ In their submissions, the Ministry and the

⁵ Order F07-10, 2007 CanLII 30395 (BC IPC) at para 11; Order F14-26, 2014 BCIPC 29 (CanLII) at para 6.

⁶ These background facts were taken from the OIPC's Fact Report and part of the submissions of the parties, which are not in dispute.

⁷ This information includes: bank statements and account information; identification documents; documents showing residence payment amount; documents showing the termination of workplace benefits; balance of the Registered Disability Savings Plan (Saving Plan); balance of a trust; balance of the Choices in Support for Independent Living (CSIL) bank account; records

complainant made reference to information that the Ministry collected or asked the complainant to produce. After a preliminary review of the parties' submissions and evidence, I found it was unclear which information the complainant provided, which information the complainant refused to produce, and which information they believe the Ministry was not authorized to collect. Therefore, I provided an opportunity for the complainant to submit further material.⁸ As a result, the complainant provided an additional submission to clarify their complaint.⁹

[13] The complainant clarifies that they believe the Ministry is not authorized to collect information about bank transactions and balances,¹⁰ a trust,¹¹ a Choices in Support for Independent Living (Support for Living) bank account, a Registered Disability Savings Plan, and the value of their residence and motor vehicle. I will refer to this information in aggregate as the information in dispute or information at issue.

Personal Information

[14] The collection provisions in Part 3 of FIPPA only apply to personal information. For added clarity, I first consider whether the information that the Ministry collects is "personal information" within the meaning of FIPPA. Personal information is defined in FIPPA as "recorded information about an identifiable individual other than contact information." 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."¹²

[15] The Ministry and the complainant do not dispute that all of the information in dispute is personal information of the applicant.

[16] Having reviewed the information in dispute, I am satisfied that all of it is the complainant's personal information because it is information about the complainant as an identifiable individual. This information is not contact information because it is not information to enable anyone to be contacted at a place of business.

showing the value of a motor vehicle and a primary residence; records showing the value of a motor vehicle and a primary residence.

⁸ OIPC's May 26, 2026 letter.

⁹ Complainant's May 27, 2026 letter.

¹⁰ Complainant's May 27, 2026 letter at pages 3-4 – Information about line of credit, reimbursements, internal transfers, credit card payments, routine spending, origins of deposits and account balances based on account holder name rather than actual ownership.

¹¹ Complainant's May 27, 2026 letter at page 4 – trust-corpus information, confirmation of trust changes, and financial statements showing trust value and transactions.

¹² See Schedule 1 of FIPPA for the definitions of personal information and contact information.

Collection of personal information, s. 26

[17] Having found that the information at issue is personal information, the next step is to decide whether the collection was authorized under FIPPA.

[18] Section 26 states that a public body “may collect personal information only if” one or more of the circumstances listed in subsections (a) – (h) apply. The use of the word “may” empowers a public body to collect personal information but the words “only if” limit that power to the circumstances prescribed in the subsections.¹³

[19] The complainant submits the Ministry was not authorized to collect their personal information, whereas the Ministry argues that it is authorized to collect the information in dispute under ss. 26(a) and (c). I will first determine whether s. 26(a) applies to the Ministry’s collection of the complainant’s personal information before considering s. 26(c), if necessary.

Is the collection authorized under s. 26(a)?

[20] Section 26(a) states that a public body may collect personal information only if the collection of the information is expressly authorized under an Act.

[21] The *Interpretation Act* contains the following definitions which apply to FIPPA:

Definitions

1 In this Act, or in an enactment:

"Act" means an Act of the Legislature, whether referred to as a statute, code or by any other name, ...;

"enactment" means an Act or a regulation or a portion of an Act or regulation;

"regulation" means a regulation, order, ... enacted

(a) in execution of a power conferred under an Act, ...

[22] I will determine whether the Ministry’s collection of the disputed information was expressly authorized under an “Act” as that term is defined above.

¹³ *Interpretation Act*, RSBC 1996, c. 238 at s. 29 “may”; R. Sullivan, *Sullivan on the Construction of Statutes* (5th ed. 2008) at 86.

Parties' submissions

[23] The complainant and the Ministry do not dispute that EAPWDA is an Act within the meaning of the *Interpretation Act*. However, the complainant submits that the Ministry's collection of the information in dispute under EAPWDA contravened FIPPA. The Ministry submits that the collection is authorized.

[24] The complainant cites s. 26(a) in their submissions; however, their arguments about ss. 26(a) and 26(c) are intertwined, making it difficult to address them separately.¹⁴ The complainant's submissions can be summarized as follows:

- The information in dispute is about assets that are exempt from the Eligibility Review under s. 10 of the Employment Assistance for Persons with Disabilities Regulation (the Regulation);¹⁵ therefore, the Ministry was not expressly authorized to collect the information.¹⁶
- The complainant's interest in their discretionary trust cannot be subject to any asset limits that would require financial verification for the Eligibility Review.¹⁷
- The value of the complainant's motor vehicle, residence and the Registered Disability Savings Plan is not considered as assets in the Eligibility Review.¹⁸
- The owner of the Support for Living bank account is a health authority and the funds in that account cannot be used in a way that overlaps the services the Disability Assistance provides; therefore, the Ministry cannot collect information about the Support for Living account.¹⁹

[25] In support of their position, the complainant provides affidavit evidence that a trustee of the complainant's trust has control over the administration of the trust.²⁰ Exhibits to the affidavit show that the complainant has no control over the

¹⁴ For example, Complainant's initial submission at para 14; Complainant's reply submission at paras 10, 11, 17, 26, 33, 39, 49, 50, 64 and 66.

¹⁵ B.C. Reg. 108/2026.

¹⁶ Complainant's initial submission at paras 14, 15 and 18.

¹⁷ Complainant's initial submission at para 21, citing *S.A. v. Metro Vancouver Housing Corp.*, 2019 SCC 4 (CanLII), [2019] 1 SCR 99. In the decision, the Supreme Court of Canada held that in a discretionary trust, a beneficiary's interest is "akin to mere hope that some or all of its property will be distributed to [the beneficiary] at some point in the future".

¹⁸ Complainant's initial submission at para 14.

¹⁹ Complainant's initial submission at para 15.

²⁰ Trustee's affidavit dated February 17, 2026 (Trustee's affidavit).

decision-making of the trust²¹ and provided the Ministry with information about the trust in 2020.²²

[26] The Ministry submits that its collection of the information in dispute is expressly authorized under s. 10(1.1) of EAPWDA and the complainant's assertion that limits the scope of information the Ministry can collect is not supported by the express wording of this section.²³

[27] The Ministry submits s. 10(1.1) of EAPWDA expressly states that the minister may direct an applicant or recipient to supply information for the purpose of determining or auditing eligibility for the Disability Assistant. The Ministry submits this wording is intended to provide broad discretion regarding the type of information that must be collected to the Ministry, other than general limitation that the actions of the Ministry must be within its mandate.²⁴ The Ministry also submits its interpretation of s. 10(1.1) of EAPWDA aligns with the modern principles of statutory interpretation.²⁵

[28] In support of its position, the Ministry provides affidavit evidence from a supervisor, health and specialized services (Supervisor) that:

- The Ministry's information and verification policy provides that the Ministry may ask an applicant or a recipient to provide or verify information for the purpose of determining or auditing eligibility for assistance, and the Ministry requests information by directing an applicant or recipient to supply verification of information.²⁶ This policy is intended to assist the Ministry in its responsibilities under s. 10(1.1) of EAPWDA.²⁷
- The Ministry collects information within its statutory ability in EAPWDA and it has done so with the intention of collecting only what it needs to perform its statutory role.²⁸
- The Ministry requested the information in dispute to assess the complainant's income and assets to confirm the changes in

²¹ Trustee's affidavit – Exhibit A, the complainant lawyer's March 16, 2020 letter.

²² Trustee's affidavit – Exhibit B, the Ministry's March 24, 2020 letter and Exhibit C, the complainant's April 27, 2020 letter. This information includes the account statement and summary regarding all funds in the trust and the master client agreement.

²³ Ministry's response submission at para 33.

²⁴ Ministry's response submission at paras 32-33.

²⁵ The principles require that enactments must be given a "fair, large and liberal construction" and read "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament."

²⁶ Supervisor's affidavit #1 at para 27; Affidavit A, Information & Verification Policy.

²⁷ Supervisor's affidavit #1 at para 28.

²⁸ Supervisor's affidavit #1 at para 36.

circumstances resulted from the Income Replacement and determine the complainant's eligibility for the Disability Assistance.²⁹

- Once the Ministry has received the required information, it exempted information the Ministry found is about an exempt asset that is not counted toward the complainant's asset limit related to the Eligibility Review.³⁰

[29] The Ministry submits that the purpose of its request for information about the complainant's trust was to see if the trust had changed since 2020 when the Ministry last approved. The Ministry submits that during the Eligibility Review the complainant stated the type of their trust has changed; the Ministry therefore had to review information about the trust³¹ as authorized by s. 10(1.1) of EAPWDA.³²

[30] In reply, the complainant submits that s. 10(1.1) of EAPWDA does not define what information the Ministry may collect for the purpose of the Eligibility Review³³ and the Ministry overbroadly interpreted s. 10(1.1) of EAPWDA to collect information that it is not authorized to do so.³⁴

Analysis and findings

[31] For the reasons that follow, I find the Ministry was authorized to collect the information at issue under s. 26(a).

[32] I considered the previous OIPC orders and reports that have discussed what is required in order to establish that the collection of personal information is expressly authorized under s. 26(a). These orders and reports have found as follows:³⁵

- In Investigation Report F12-01, the Commissioner examined ICBC's collection of digital photographs and biometric data, (*i.e.*, measurements taken of an individual's facial geometry and skin texture), the Commissioner concluded that s. 25(3) of the *Motor Vehicle Act* gives ICBC the express statutory authority to collect this personal information. Section 25(3) states, "For the purpose of determining an applicant's driving experience, driving skills, qualifications, fitness and ability to

²⁹ Supervisor, Health and Specialized Services for the Ministry (Supervisor)'s affidavit #1 at paras 8 and 33-35.

³⁰ Supervisor's affidavit #1 at paras 12-14.

³¹ Ministry's response submission at para 18.

³² Ministry's response submission at para 18.

³³ Complainant's reply submission at para 16.

³⁴ Complainant's reply submission at paras 4, 17 and 27.

³⁵ Findings of these orders and reports were summarized in Order F14-26, 2014 BCIPC 29 (CanLII) at paras 22-25.

drive... the applicant must... (d) submit to having his or her picture taken”.³⁶

- Investigation Report F11-03 examined BC Hydro’s use of smart meters to collect hourly information about its customers’ electricity consumption. The Commissioner concluded that s. 2(d) of the *Smart Meters and Smart Grid Regulation* of the *Clean Energy Act*, which provides that smart meters must be capable of recording measurements of electricity “at least as frequently as in 60-minute intervals”, provides the express statutory authority under s. 26(a) for the collection of hourly electricity consumption data.³⁷
- Order F14-26 discussed that ICBC’s collection of weight information from drivers’ licence applicants, to put it on a licence document that can be used to identify the licence holder as someone who is authorized to drive a motor vehicle, was expressly authorized by s. 25(2.1) of the *Motor Vehicle Act*. Section 25(2.1) states, “For the purposes of making an application for a driver's licence under subsection (1), the Insurance Corporation of British Columbia may require the applicant for a driver's licence and for a driver's certificate to provide information...”.³⁸
- Conversely, in Order F07-10³⁹ the Commissioner found that there was no language in the *School Act* expressly authorizing or directing the collection of personal information for the hiring process. Section 15(1) of the *School Act* simply says that a “board may employ and is responsible for the management of those persons that the board considers necessary for the conduct of its operations”. While it was implicit that personal information would have to be collected, the Commissioner found this did not meet the requirements of s. 26(a).

[33] Turning back to the circumstances of the present inquiry, s. 10(1.1) of EAPWDA states:

Information and verification

10(1.1) The minister may, for the purpose of determining or auditing eligibility for disability assistance, hardship assistance or a supplement, do one or more of the following:

³⁶ Investigation Report F12-01, 2011 BCIPC No 5.

³⁷ Investigation Report F11-03, 2011 BCIPC No 43.

³⁸ Order F14-26, 2014 BCIPC 29 (CanLII), at para 22 citing Insurance Corp. of British Columbia, [2000] BCIPCD No 15.

³⁹ Order F07-10, 2007 CanLII 30395 (BC IPC).

- (a) direct an applicant or recipient to supply the minister with information within the time and in the manner specified by the minister;
- (b) seek verification of any information supplied to the minister by an applicant or recipient;
- (c) direct an applicant or recipient to supply verification of any information the applicant or recipient supplied to the minister.

[34] Consistent with the findings of the above noted OIPC's reports and orders, it is clear to me that s. 10(1.1) of EAPWDA expressly authorizes the collection of personal information of a Disability Assistance applicant or recipient for the purpose of determining or auditing eligibility. I note that the present case is distinguishable from Order F07-10. The relevant section of the *School Act* which was discussed in that order has wording a "board may employ and is responsible for the management of those persons that the board considers necessary for the conduct of its operation." This wording says nothing about the activity of collecting or supplying personal information.

[35] Section 10(1.1) of EAPWDA specifies the particular methods of collecting personal information to perform the Ministry's statutory role (e.g., directing to supply information, seeking verification of information and directing to supply verification of information). I am satisfied that the Ministry may direct an applicant or recipient to supply the Ministry with information within the time and manner specified by the Minister within the scope of the Ministry's mandate. Also, I find the wording of s. 10(1.1) of EAPWDA is clearly intended to provide the Minister with broad discretion as to the types of information that must be supplied for the purpose of determining or auditing eligibility.

[36] The complainant seems to suggest that the information at issue is about assets exempt from the Eligibility Review; and therefore, the Ministry is not authorized to collect the information.⁴⁰ However, the complainant has not established that this is a rule or constraint imposed upon the Ministry by any of the relevant legislation. It seems to me that the Ministry must review information about assets, including purportedly exempt assets from time to time, in order to determine whether they are in fact exempt as an applicant or recipient claims they are.

[37] In their submissions, the complainant provides their correspondence with the Ministry,⁴¹ the Ministry's information sheet,⁴² information on the BC

⁴⁰ Complainant's initial submission at paras 19-22 and reply submission at para 17.

⁴¹ Email chains and a letter between the complainant and the Ministry in which the complainant argues that the Ministry must not collect information about CSIL bank account, trust and exempt assets.

⁴² The Ministry's information sheet "Disability Assistance and Trust".

government's website⁴³ and full copies of the court decisions and OIPC orders and reports they cited.⁴⁴ However, I find these documents do not assist the complainant because none of them discuss about "limit" of the Ministry's authority under s. 10 of EAPWDA and how the Ministry's discretion is restricted when the Ministry exercises its authorities within its mandate. I can see s. 10 of the Regulation provides assets exempt from the Eligibility Review. In my view, however, this section simply specifies asset items not considered during the Eligibility Review and does not limit the Ministry's authority under s. 10(1.1) of EAPWDA.

[38] In summary, I find the Ministry's collection of all of the information in dispute was permitted under s. 26(a) because it was expressly authorized under an Act, specifically, EAPWDA.

[39] Given my determination that the Ministry's collection was authorized under s. 26(a), it is unnecessary to decide if the collection was also authorized under s. 26(c).⁴⁵

CONCLUSION

[40] For the reasons given above, I find that the Ministry collected the complainant's personal information and this collection was authorized under s. 26(a) of FIPPA.

July 28, 2026

ORIGINAL SIGNED BY

D. Hans Hwang, Adjudicator

OIPC File No.: F24-97905

⁴³ Information on BC Government website about "Trusts" and "Medical Service Only".

⁴⁴ *S.A. v. Metro Vancouver Housing Corp.*, 2019 SCC 4 (CanLII), [2019] 1 SCR 99; *Terezakis v. Ekins*, 2018 BCSC 249; *Bell ExpressVu Limited Partnership v. Rex*, [2002] 2 S.C.R. 559, 2002 SCC 42. Order F07-10, 2007 CanLII 30395 (BC IPC); Order F14-26, 2014 BCIPC 29 (CanLII); Order F15-01, 2015 BCIPC 1 (CanLII); Order F19-37, 2019 BCIPC 41 (CanLII); Investigation Report F12-01, 2011 BCIPC No 5; Investigation Report F15-01, 2015 BCIPC No 15; Order F15-57, 2015 BCIPC 60 (CanLII).

⁴⁵ For a similar reasoning, see Order F25-23, 2025 BCIPC 28 (CanLII), at para 27.