OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

Order F26-94

BRITISH COLUMBIA FERRY SERVICES INC.

David S. Adams
Adjudicator

October 29, 2026

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Quicklaw Cite: [2026] B.C.I.P.C.D. No. 119

Summary: An applicant requested information about her employment from her former employer, British Columbia Ferry Services Inc. (BC Ferries). BC Ferries provided responsive records but withheld some information from them under ss. 3(3)(h) (record of a question or answer to be used on an examination), 13(1) (advice or recommendations) and 22(1) (unreasonable invasion of third-party privacy) of the *Freedom of Information and Protection of Privacy Act* (FIPPA). The adjudicator found that under s. 3(3)(h), FIPPA did not apply to a small amount of information, and that BC Ferries was authorized to withhold all the information it withheld under s. 13(1) and was required to withhold some of the information it withheld under s. 22(1). The adjudicator also found that disclosure of the remaining information withheld under s. 22(1) would not unreasonably invade third-party personal privacy. The adjudicator ordered BC Ferries to disclose the information it was not required or authorized to withhold.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, ss. 3(3)(h), 13(1), 13(2), 13(3), 22(1), 22(2)(f), 22(2)(h), 22(3)(a), 22(3)(d), 22(3)(h), 22(4)(e), and 22(5).

INTRODUCTION

[1] An applicant requested copies of all records containing information about her employment with British Columbia Ferry Services Inc. (BC Ferries), under the *Freedom of Information and Protection of Privacy Act* (FIPPA). The applicant requested records dated between January 1, 2014 and May 21, 2024.

[2] BC Ferries provided responsive records but withheld information from them under various sections of FIPPA. The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review BC Ferries' decision to withhold information. Mediation by the OIPC did not resolve the outstanding issues and the matter proceeded to this inquiry. Both parties provided written submissions for the inquiry.

Preliminary Issues

Adequate search – s. 6(1)

[3] Throughout her submission, the applicant raises her concern that BC Ferries has not located and identified all of her employment-related records. For instance, regarding BC Ferries' severance of information under s. 22(1), she says: "I do not challenge every severance appearing on these records. Rather, my concern is that they illustrate the relatively small number of substantive employment records produced in response to my request."[1] She also asks that I "consider the absence of records that would reasonably be expected to exist in relation to significant workplace events and [her] dismissal when assessing whether [BC Ferries] has met its obligations under FIPPA".[2] I infer from these and similar statements that the applicant is requesting that I determine whether BC Ferries has conducted an adequate search for records in accordance with its duties under s. 6(1).

[4] In response, BC Ferries says the applicant should not be permitted to raise the issue of the adequacy of BC Ferries' search for responsive records at this stage. It also says the OIPC has already investigated and dismissed an adequate search complaint from the applicant relating to the same access request.[3]

[5] I find that the OIPC has already investigated the applicant's adequate search complaint and found that BC Ferries complied with its s. 6 duties. I therefore decline to consider that issue in this inquiry.

Information no longer in dispute

[6] For the following reasons, I conclude that the applicant no longer seeks some of the information that was in dispute in this inquiry and that some of it is no longer being withheld by BC Ferries.

[7] The applicant says she does not challenge the application of s. 22(1) to a small amount of withheld information.[4] She also says she does not seek disclosure of a small number of personal cell phone numbers belonging to BC Ferries employees.[5]

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[1] Applicant's response submission at 13-14.
[2] *Ibid* at 20.
[3] BC Ferries' reply submission at paras 2-4; OIPC's May 14, 2025 letter to the applicant and BC Ferries.
[4] Applicant's response submission at 13-14.
[5] Applicant's response submission at 11. Examples can be found at pages 408 and 463 of the records package.

[8] BC Ferries is withholding website addresses, electronic file paths, account usernames, and a safe code under s. 15(1)(l). The applicant says she has no "particular interest in obtaining internal URLs, file paths, usernames, or technical system information", nor does she have "any interest in the safe code".[6] I consider these categories of information to no longer be in dispute and will not consider them in this inquiry.[7] Since this is the only information that remains withheld under s. 15(1)(l), this means that the application of s. 15(1)(l) is no longer at issue in this inquiry.

[9] Finally, BC Ferries says it is no longer withholding the business cell phone numbers of its employees under ss. 15 and 22(1).[8] As BC Ferries does not withhold this information under any other provision, I do not consider this information to be in dispute.

ISSUES AND BURDEN OF PROOF

[10] The issues remaining for me to decide in this inquiry are as follows:

1. Is some information outside the scope of FIPPA pursuant to s. 3(3)(h)?
2. Is BC Ferries authorized to refuse to disclose information under s. 13(1)?
3. Is BC Ferries required to refuse to disclose information under s. 22(1)?

[11] FIPPA does not set out who has the burden of establishing that information is outside the scope of FIPPA under s. 3(3)(h). However, previous orders have established that the public body has the burden of establishing that records are excluded from the scope of FIPPA under s. 3, and I adopt that approach here.[9]

[12] Under s. 57(1) of FIPPA, BC Ferries has the burden of proving that the applicant has no right of access to the information it withheld under s. 13(1).

[13] Under s. 57(2), the applicant has the burden of proving that disclosure of the information BC Ferries withheld under s. 22(1) would not unreasonably invade third-party privacy. However, it is up to BC Ferries first to establish that the information at issue is personal information.[10]

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[6] Applicant's response submission at 8 and 19.
[7] For similar findings, see, e.g., Order F26-61, 2026 BCIPC 76 (CanLII) at para 38; and Order F25-29, 2025 BCIPC 35 (CanLII) at para 5.
[8] BC Ferries' initial submission at footnote 6; BC Ferries' reply submission at para 7.
[9] Order F26-83, 2026 BCIPC 103 (CanLII) at para 8 and the orders cited therein. BC Ferries also accepts that it has the burden on this point in its initial submission at para 16.
[10] Order 03-41, 2003 CanLII) 49220 (BC IPC) at paras 9-11.

DISCUSSION

Background

[14] BC Ferries is responsible for the delivery of ferry services in the province. It has approximately 4,700 employees. The applicant is a former employee of BC Ferries. She requested "any and all records pertaining to" herself covering the period January 1, 2014 to May 21, 2024.

Information in dispute

[15] The records responsive to the applicant's request total 1924 pages.[11] Approximately 307 of those pages contain information that is still in dispute.

[16] Most of the information in the responsive records has been disclosed to the applicant. The withheld information consists mainly of portions of emails and text messages, a performance review, and portions of forms supplied by the applicant.

Outside the scope of FIPPA – s. 3(3)(h)

[17] Section 3 deals with FIPPA's application. The relevant parts of that section say the following:

> 3 (1) Subject to subsections (3) to (5), this Act applies to all records in the custody or under the control of a public body, including court administration records.
>
> …
>
> (3) This Act does not apply to the following:
>
> …
>
> (h) a record of a question or answer to be used on an examination or test

[18] BC Ferries withheld some information on page 641 of the records package under s. 3(3)(h). It provided an affidavit from its manager for operational training, who says that BC Ferries routinely examines its employees' knowledge of operational and safety topics. He says this examination is done using a repository of questions, and that the withheld information consists of questions and answers that continue to form part of that repository.[12]

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[11] BC Ferries located and provided two additional pages of responsive records, but no longer seeks to withhold any information in them: BC Ferries' June 5, 2026 letter to the OIPC.
[12] BC Ferries' initial submission at paras 17-25; Affidavit of manager for operational training.

[19] The applicant says the withheld information appears to relate to a knowledge assessment or certificate process rather than a formal employment interview process.[13]

[20] Examining the withheld information, I can see that it consists of questions on a knowledge test submitted by the applicant, as well as the applicant's answers, which are marked for correctness. I accept BC Ferries' evidence that the withheld information is a record of questions and answers to be used on an examination or test, and find that s. 3(3)(h) applies to that information. It follows that FIPPA does not apply to that information and the applicant has no right of access to it.

Advice or recommendations – s. 13(1)

[21] Under s. 13(1), BC Ferries is withholding portions of emails and text messages related to the management of the applicant's employment.[14]

[22] Section 13(1) allows a public body to refuse to disclose information that would reveal advice or recommendations developed by or for a public body. The purpose of the section is to prevent the harm that would occur if a public body's deliberative process were exposed to public scrutiny, so that the free and frank flow of advice and recommendations can take place.[15]

[23] The analysis under s. 13 involves two steps. First, I must decide whether disclosure of the withheld information would reveal advice or recommendations developed by or for a public body. If it would, the next step is to determine whether any of the circumstances set out in ss. 13(2) or (3) apply to any of that information. If one or more of these circumstances apply, the public body cannot rely on s. 13(1) to withhold the information.

Advice or recommendations

[24] BC's courts and previous OIPC orders have established the following principles for interpreting s. 13(1):

- The requirement that the disclosure of information must "reveal" advice or recommendations means that s. 13(1) does not apply to information that has already been disclosed.
- The term "advice" is broader than "recommendations" and includes an opinion that involves exercising judgment and skill to weigh the significance

[13] Applicant's response submission at 5.
[14] This material is at pages 116, 118, 138, 203, 209-210, 233, 241, 303, and 749 of the records package.
[15] *Insurance Corporation of British Columbia v. Automotive Retailers Association*, 2013 BCSC 2025 at paras 52 and 65.

of matters of fact. Advice can be an opinion about an existing set of circumstances and does not have to be a communication about future action.

- "Advice" also includes factual information compiled and selected by an expert using their expertise, judgment, and skill for the purpose of providing explanations necessary to the deliberative process of a public body. This compilation of factual information and weighing of the significance of matters of fact is an integral component of an expert's advice and informs the decision-making process.
- "Recommendations" include material relating to a suggested course of action that will ultimately be accepted or rejected by the decision maker.
- Section 13(1) applies not only to advice or recommendations themselves, but also to information that would allow an observer to accurately infer advice or recommendations.[16]

[25] BC Ferries says the information withheld under s. 13(1) consists of advice or recommendations within the meaning set out above.[17] In support of its position, BC Ferries also provides affidavit evidence from one of its human resources managers (the HR Manager), who states that she was a party to the emails from which information is withheld under s. 13(1). She says the withheld information contains advice or recommendations she sought or provided about issues related to the applicant's employment.[18]

[26] The applicant says BC Ferries may have applied s. 13(1) to "communications that are primarily factual, administrative, operational, or routine in nature". She says that BC Ferries has not demonstrated that each portion of withheld information consists of advice or recommendations, and that certain portions relate to the implementation of a decision, rather than deliberations about the decision. She says there is no evidence BC Ferries exercised its discretion to withhold the information appropriately.[19]

[27] In reply, BC Ferries says it exercised its discretion to apply s. 13(1) to only a limited amount of information about staff discussions related to the management of the applicant's employment.[20]

[28] Having examined the information BC Ferries withheld under s. 13(1), I find that most of it consists of express recommendations about managing the applicant's employment through specific courses of action. For the portions that

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[16] Order F26-51, 2026 BCIPC 63 (CanLII) at para 26, citing Order F24-33, 2024 BCIPC 40 (CanLII) at para 18 and the orders and court decisions cited therein.
[17] BC Ferries' initial submission at paras 31-33.
[18] Affidavit of HR Manager at paras 3-4.
[19] Applicant's response submission at 5-8.
[20] BC Ferries' reply submission at paras 9-10.

do not contain recommendations, I find that they consist of opinions about existing sets of circumstances that engage the opinion-givers' expertise and judgment, and therefore qualify as "advice" for the purposes of s. 13(1). I therefore find that all of the withheld information consists of advice or recommendations developed by or for BC Ferries.

Information a public body must not refuse to disclose – s. 13(2)

[29] Section 13(2) lists the kinds of information a public body must not refuse to disclose under s. 13(1). Neither party made detailed submissions on the provisions of s. 13(2); BC Ferries says that none of them apply.[21] I have considered each s. 13(2) provision and I find that none of them apply to any of the information I am considering.

Information in existence for 10 or more years – s. 13(3)

[30] Section 13(3) says that s. 13(1) does not apply to information in a record that has been in existence for 10 or more years. All of the information withheld under s. 13(1) appears in records that came into existence in 2024. Therefore, the relevant records have not been in existence for 10 or more years and s. 13(3) does not apply.

Conclusion on s. 13(1)

[31] I have found that all of the information withheld under s. 13(1) would reveal advice or recommendations developed by or for a public body, and that no exceptions under ss. 13(2) or (3) apply. I also can see nothing in the material before me to indicate that BC Ferries improperly exercised its discretion to withhold the relatively small amount of information it did. BC Ferries is therefore authorized to refuse to disclose the information.

Unreasonable invasion of third-party privacy – s. 22(1)

[32] Section 22(1) requires a public body to refuse to disclose personal information if the disclosure would be an unreasonable invasion of a third party's personal privacy.[22]

[33] The OIPC's approach to the s. 22(1) analysis is well established and involves the following steps: [23]

1. Determine whether the information in dispute is personal information.

[21] BC Ferries' initial submission at para 31.
[22] A "third party" is defined in FIPPA as any person, group of persons, or organization other than the person who made the access request and the public body.
[23] Order F21-32, 2021 BCIPC 40 (CanLII) at para 82.

2. Determine whether any of the circumstances described in s. 22(4) apply. If they do, then disclosure is *not* an unreasonable invasion of a third party's personal privacy.
3. Determine whether any of the presumptions listed in s. 22(3) apply. If they do, disclosure is *presumed* to be an unreasonable invasion of personal privacy. Presumptions may be rebutted by considering all the relevant circumstances (the next step in the analysis).
4. Consider the impact that disclosure would have in light of all the relevant circumstances, including those listed in s. 22(2). Do the relevant circumstances weigh in favour of or against disclosure?

[34] As discussed above, some of the information marked as withheld under s. 22(1) is no longer being withheld on that basis, and the applicant is no longer seeking certain information withheld under s. 22(1).

[35] Some of the information withheld under s. 22(1) was also withheld under s. 13(1). Where I have found that BC Ferries may withhold that information under s. 13(1), I do not need to also consider it in this s. 22(1) analysis and I decline to do so.

[36] I find that the remaining information withheld under s. 22(1) falls into the following categories:[24]

1. The names of employees that appear in complaints or concerns authored by the applicant;[25]
2. Employees' workplace complaints about the applicant;[26]
3. Handwritten notes collected for a workplace investigation;[27]
4. The identity of an employee who had a medical incident on a vessel;[28]
5. Positive comments the applicant reported other people made about her;[29]
6. Information the applicant supplied about her partner and child;[30]

[24] In this section, all page references are to BC Ferries' records package unless otherwise indicated. All references to "employees" or "managers" are to BC Ferries employees unless otherwise indicated.
[25] At pages 1-3, 7-8, 17, 23-25, 27, 32-34, 65-70, 74, 77-79, 83-89, 122, 127, 133-134, 182, 187, 261-285, 331-335, 379-379, 392, 397-398, 427, 450, 455, 466, 497, 508, 510, 519, 523, 646-650, 670-672, 674-695, and 831-835.
[26] At pages 5-6 and 104-105.
[27] At pages 9-12.
[28] At pages 29-31.
[29] At pages 98-101.
[30] At pages 121, 126, 138, 181, 186, 453, 546, 675, and 707.

7. The identity of managers who were asked to confirm facts;[31]
8. The identity of employees who were being considered for possible job moves;[32]
9. An email correcting a spreadsheet about the status of certain employees;[33]
10. The identities of two employees who had a dispute with the applicant, which is contained in a management-created timeline;[34]
11. A manager's speculation about the applicant's future actions in relation to a disallowed WorkSafe claim;[35]
12. The identities of employees about whom a manager expressed concerns;[36]
13. The identities of employees who were assigned to particular stations on certain days, or who engaged in a shift exchange;[37]
14. The identity and image of a banned passenger;[38]
15. The identities of several employees who expressed job-related concerns;[39]
16. Employee assignments for a special event;[40]
17. The identities of two managers with whom the applicant requested a meeting;[41]
18. The identities of employees who have or have not taken particular courses;[42]
19. The identities of employees about whom the applicant made positive comments;[43]
20. The identities of employees who have taken sick leave;[44]
21. A group picture of on-duty employees;[45]

[31] At pages 149, 481-483, and 771.
[32] At pages 203-205, 208, 210-212, 297, 654-655, 732, 742, 748, 750-751, 753, and 773.
[33] At page 253.
[34] At pages 257-259.
[35] At page 345.
[36] At pages 389-391.
[37] At pages 393, 512-514, 524, 526-527, 531-533, 527, 540-541, 630, and 659-661.
[38] At pages 394-395.
[39] At pages 414, 422, and 502.
[40] At pages 407-409.
[41] At page 416.
[42] At pages 419-420 and 530.
[43] At pages 452, 477, and 480.
[44] At pages 466-471.
[45] At page 506.

22. Employee numbers and usernames;[46]
23. The identity of a member of the public who complimented the applicant through BC Ferries' public-facing email;[47]
24. A performance review of the applicant;[48]
25. The identity of an employee who served as a witness to a report about first aid treatment involving the applicant;[49]
26. Handwritten employee signatures or initials;[50]
27. Non-employee signatures or initials, and a physician's Medical Services Plan (MSP) number;[51]
28. The identities of employees whose resumes appear in a "bulk print summary" along with the applicant's;[52]
29. The identities of beneficiaries designated by the applicant on a group benefits enrolment form;[53]
30. What appear to be blank fields in an incomplete gym membership agreement;[54]
31. What appears to be the applicant's own banking information;[55]
32. Employee names, numbers, and start dates;[56]
33. The entirety of a string of text messages about the applicant which was exchanged between managers;[57] and
34. Miscellaneous information about employees where it is unclear from the context what the information concerns.[58]

Is the information personal information? – s. 22(1)

[37] I must first decide whether the withheld information is the personal information of one or more third parties. If it is not, s. 22(1) does not apply and

[46] At pages 550-551, 554-555, 558-559, and 609.
[47] At page 591.
[48] At page 592.
[49] At page 558.
[50] At pages 43, 291, 307, 558-559, 583, 601, 607, 609-610, 617, 626, 628-629, 631-633, 636, 639-641, 643-645, 665, 705, 766, 946, 952, 969, 976, 1008, 1011, 1013, and 1036.
[51] At pages 594-597, 599-600, 602-604, 612-615, 620-622, 624, 627, 634-635, 638, 847, 960, 980, 982, and 986.
[52] At page 866.
[53] At pages 935 and 938.
[54] At page 953.
[55] At page 960.
[56] At page 966.
[57] At pages 1918-1924.
[58] At pages 525, 537, and 539.

the analysis ends there. If it is, I must go on to consider whether its disclosure would be an unreasonable invasion of a third party's privacy.

[38] "Personal information" is defined in Schedule 1 of FIPPA:

> "personal information" means recorded information about an identifiable individual other than contact information;
>
> "contact information" means 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;

[39] Information is "personal information" for the purposes of s. 22(1) if it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.[59]

[40] BC Ferries says all of the information it withheld under s. 22(1) is personal information.[60] The applicant acknowledges that some of the withheld information is personal information and does not specifically say that any of it is *not* personal information.[61]

[41] I find that almost all of the withheld information is about identifiable individuals. It mostly consists of their names, images, signatures, unique identifiers, and things written about them. I do not find that any of this information is contact information.[62] It is therefore personal information.

[42] In addition, much of the personal information was either authored by the applicant or is about her. I find that this information is the personal information of both the applicant and of one or more third parties.[63]

[43] However, I find that a small amount of withheld information is not third-party personal information. The information in category 30 above appears to consist of blank fields on a form. The information in category 31 appears to consist of the applicant's own banking information. BC Ferries does not explain how this information is the personal information of third parties, and I do not find that it is. BC Ferries is therefore not required to refuse to disclose that information under s. 22(1).[64]

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[59] Order F18-11, 2018 BCIPC 14 (CanLII) at para 32.
[60] BC Ferries' initial submission at para 56.
[61] Applicant's response submission at 8-9.
[62] As I noted above, BC Ferries has withdrawn its reliance on s. 22(1) with respect to the business cell phone numbers of its employees.
[63] See, e.g., Order F22-62, 2022 BCIPC 70 (CanLII) at para 54.
[64] For a similar finding, see Order F25-80, 2025 BCIPC 94 (CanLII) at para 54.

Not an unreasonable invasion of privacy – s. 22(4)

[44] Section 22(4) lists circumstances in which the disclosure of personal information is not an unreasonable invasion of a third party's personal privacy. BC Ferries says none of the s. 22(4) circumstances apply to any of the withheld information.[65] The applicant does not directly address s. 22(4), but says BC Ferries may have withheld some information about third parties acting in their professional capacities.[66]

Position, functions, or remuneration – s. 22(4)(e)

[45] While no party raised the application of s. 22(4)(e), I find it is potentially relevant to some of the categories of personal information listed in paragraph 36 above. Section 22(4)(e) says that it is not an unreasonable invasion of a third party's privacy to disclose information about the third party's position, functions, or remuneration as a public body employee.

[46] It is well-established that s. 22(4)(e) applies to objective, factual statements about what a third party said or did in the normal course of discharging their job duties, but not to qualitative assessments or evaluations of these actions.[67]

[47] I find that s. 22(4)(e) applies to the handwritten signatures and initials of BC Ferries employees, which appear to have been provided in the normal course of those employees' duties.[68]

[48] I have also considered the application of s. 22(4)(e) to the category 33 information. This consists of a string of text messages, withheld in their entirety, that contain BC Ferries managers' discussions about the applicant, as well as some incidental discussion of other employees. The HR Manager deposes that the category 33 information was exchanged as part of an investigation into possible employment action about the conduct of the applicant, and that the person who provided the messages did so on the understanding that the information provided would not be disclosed to the applicant.[69]

[49] The category 33 information consists of a text message exchange made by BC Ferries managers in the normal course of their duties, which clearly include managing the applicant's employment and investigating issues discovered in the course of performing those managerial duties. While I accept

[65] BC Ferries' initial submission at para 57.
[66] Applicant's response submission at 12.
[67] Order 01-53, 2001 CanLII 21607 (BC IPC) at para 40; Order F25-13, 2025 BCIPC 14 (CanLII) at para 50.
[68] For similar findings, see Order F25-02, 2025 BCIPC 2 (CanLII) at paras 82-83; Order F22-62, 2022 BCIPC 70 (CanLII) at paras 28-29.
[69] Affidavit of HR Manager at para 8.

BC Ferries' evidence that the information was collected as part of a workplace investigation, I do not think this fact takes the exchange out of the realm of the managers' normal employment duties.[70] I therefore find that s. 22(4)(e) applies to the majority of the category 33 information.

[50] However, I find that s. 22(4)(e) does not apply to the information about the other third parties who are mentioned within this text conversation because the messages are not about the normal course of *those* third parties' duties.[71]

[51] There are a few other categories of information to which I find s. 22(4)(e) applies. The category 7 information consists of the identities of BC Ferries managers who have been asked to confirm certain facts. I find that this information relates to the normal course of those managers' duties. Similarly, the category 11 information, which consists of a manager's speculation about the applicant's possible actions in relation to a disallowed WorkSafe claim, is squarely about the manager's normal duties in managing the applicant's employment. Finally, the category 17 information consists of the identities of two managers whom the applicant requested to meet. I find that this meeting request falls within the managers' ordinary duties and that s. 22(4)(e) applies to this information.

[52] I conclude that it would not be an unreasonable invasion of a third party's privacy to disclose the information to which I found s. 22(4)(e) applies. As a result, BC Ferries is not required to refuse to disclose that information under s. 22(1) and it is unnecessary for me to consider this information further in the s. 22 analysis.

[53] I have also considered whether any other s. 22(4) circumstances apply to any of the other withheld information and find they do not.

Presumed unreasonable invasion of privacy – s. 22(3)

[54] Section 22(3) sets out circumstances in which the disclosure of personal information is presumed to be an unreasonable invasion of a third party's privacy. BC Ferries says ss. 22(3)(d), 22(3)(g), and 22(3)(h) each apply to some of the withheld information. I understand the applicant to be arguing that BC Ferries has applied these presumptions too broadly.[72]

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[70] In the context of s. 22(3)(d), in Order F26-37, 2026 BCIPC 47 (CanLII) at para 65 the adjudicator made the following comments, with which I agree: "A third party's employment history does *not* include descriptions, comments or opinions about what the third party observed, said or did, provided as part of a workplace investigation where they were not the subject of the investigation, if the descriptions, comments, or opinions do not reveal anything about their work performance or history." (emphasis in original)

[71] I have highlighted this information in green on pages 1918-1924 of the records package.

[72] Applicant's response submission at 19.

Medical history, condition, treatment, or evaluation – s. 22(3)(a)

[55] Although the parties do not address the section, I find that s. 22(3)(a) is relevant to a small amount of withheld information. Section 22(3)(a) provides that the disclosure of information that relates to (among other things) a third party's medical history, diagnosis, treatment, or evaluation is presumed to be an unreasonable invasion of the third party's privacy.

[56] The category 4 information consists of the name of a BC Ferries employee who had a medical incident on a vessel. Only the employee's name has been withheld, not the information about the employee's medical condition and treatment. I find that s. 22(3)(a) applies to the employee's name because it identifies who had that condition and treatment.

[57] In addition, much of the information in category 6 relates to the medical diagnosis and/or treatment of a named third party, so I find s. 22(3)(a) applies to that information as well.

Employment, occupational, or educational history – s. 22(3)(d)

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

[59] Previous orders have found that s. 22(3)(d) applies to information about a third party's workplace behaviour, including complaints, investigations, or discipline related to the third party's workplace conduct, as well as workplace complaints initiated by third parties. These orders have also found that s. 22(3)(d) applies to information related to the administration of a third party's employment, such as job applications, resumes, personal identifiers, and leave entitlements.[73]

[60] BC Ferries says the withheld information consists of third parties' employment histories.[74] The applicant does not specifically address s. 22(3)(d).

[61] Having reviewed the withheld information, I find that most of it consists of the employment history of third parties. For example, the category 1 information consists of the identities of employees about whom the applicant complained to management. The category 2 information consists of third parties' workplace complaints about the applicant. The category 3 information consists of the handwritten notes of a workplace investigator that record the statements of complainants. I also find that the comments relating to one-on-one meetings with

[73] Order F26-15, 2026 BCIPC 19 (CanLII) at paras 67-68 and the orders cited therein; Order F24-48, 2024 BCIPC 56 (CanLII) at paras 92-97.
[74] BC Ferries' initial submission at para 59.

third parties in the category 33 information forms part of those third parties' employment history.

[62] In addition, the category 18 information sets out which employees have, or have not, taken particular courses. I find that this information is those employees' educational history and is presumed to be an unreasonable invasion of their privacy under s. 22(3)(d).

Personal recommendations or evaluations, character references or personnel evaluations about a third party – s. 22(3)(g)

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

[64] BC Ferries says this presumption applies to the withheld information where the applicant provides evaluative comments about third-party employees.[75] The applicant does not expressly address s. 22(3)(g).

[65] I find that much of the withheld information consists of the applicant's evaluative comments about third parties, but I do not agree with BC Ferries' position that s. 22(3)(g) necessarily applies to such comments. Previous orders have interpreted the section to apply to formal performance reviews, job or academic references, the views of a workplace investigator about a third party, but not to witness or complainant statements in workplace investigations, nor to employees' comments or complaints about each other's workplace attitudes or behaviour.[76]

[66] I have reviewed the withheld information and find that most of it does not consist of the formal evaluative statements contemplated by s. 22(3)(g). However, I do find that s. 22(3)(g) applies to the information withheld from the performance management documents authored by the applicant.[77]

Content of a personnel evaluation – s. 22(3)(h)

[67] Section 22(3)(h) provides that a disclosure of personal information is presumed to be an unreasonable invasion of a third party's privacy where the disclosure would reveal:

[75] BC Ferries' initial submission at para 60.
[76] Order F21-08, 2021 BCIPC 12 (CanLII) at paras 138-140.
[77] At pages 83-89 of the records package.

> (i) the identity of a third party who supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation, or
>
> (ii) the content of a personal recommendation or evaluation, character reference or personnel evaluation supplied, in confidence, by a third party, if the applicant could reasonably be expected to know the identity of the third party.

[68] BC Ferries argues s. 22(3)(h) applies to information that consists of BC Ferries employees' expressions of concern about the applicant's conduct.[78] The applicant says her performance review should not be withheld because it relates directly to her own employment and performance.[79]

[69] I am satisfied that the performance review of the applicant is a "personnel evaluation" and that the applicant could reasonably be expected to know the identity of the person who completed the performance review. However, 22(3)(h)(ii) requires the evaluation to have been supplied in confidence. The performance review is marked "confidential", but it also provides: "This form is to be completed by the supervisor and reviewed with the employee during a performance review meeting." Because of this, I do not think the third party supplied the performance review in an expectation of confidentiality *with respect to the applicant*, since they were required to review it together.

[70] Previous orders have found that s. 22(3)(h) applies to circumstances where the person providing the evaluation wants to remain anonymous.[80] That is clearly not the case here. I therefore find that s. 22(3)(h) does not apply to the applicant's performance review.

[71] As for the rest of the personal information to which BC Ferries says s. 22(3)(h) applies, namely third parties' expressions of concern about the applicant's conduct, I do not find that these expressions are personal recommendations or evaluations within the meaning of s. 22(3)(h). Previous orders have found that s. 22(3)(h) does not apply to an employee's allegations about a fellow employee, employee comments or complaints about workplace attitudes and behaviour, or employee feedback and opinions about other employees on workplace issues.[81]

[72] The parties do not raise any other s. 22(3) presumptions, and I do not find that any apply.

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[78] BC Ferries' initial submission at paras 61-62.
[79] Applicant's response submission at 16-17.
[80] Order F21-60, 2021 BCIPC 69 (CanLII) at para 25.
[81] Order F20-13, 2020 BCIPC 15 (CanLII) at paras 58-63.

Relevant circumstances – s. 22(2)

[73] Section 22(2) provides that in determining whether a disclosure of personal information would be an unreasonable invasion of a third party's privacy, a public body must consider all relevant circumstances, including those set out in s. 22(2). The applicant may rebut any applicable s. 22(3) presumptions at this stage.

[74] BC Ferries says ss. 22(2)(f) and 22(2)(h) apply and weigh against disclosure. The applicant says her knowledge of the events described in the records, the fact that much of the withheld information is her own personal information, and her authorship of many of the records from which information was withheld, are considerations that should weigh in favour of disclosure.[82]

Supplied in confidence – s. 22(2)(f)

[75] Section 22(2)(f) asks whether the personal information was supplied in confidence. If it was, this weighs against disclosure. In order for s. 22(2)(f) to apply, a third party must have supplied the information in an objectively reasonable expectation of confidentiality at the time they supplied the information.[83]

[76] BC Ferries says that s. 22(2)(f) supports its decision to withhold information, but does not say how or indicate which information was supplied in confidence.[84] The applicant does not address the point except to say that BC Ferries is required by s. 22(5) to summarize information supplied in confidence about her.[85]

[77] I find that the third parties who made complaints about the applicant (whose personal information is captured in category 2) did so with an objectively reasonable expectation of confidentiality. I also find that the information supplied to the workplace investigator, captured in category 3, was supplied in confidence. I can readily infer an expectation of confidentiality over the supply of this information from the circumstances, and I am satisfied that this expectation was objectively reasonable considering the content of the information that was supplied. I find that this factor weighs against disclosure of that information.

[78] However, in the absence of explanation from BC Ferries, I cannot find that any of the other withheld information was supplied in confidence.

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[82] Applicant's response submission at 9-10, 12, 15-16, and 19.
[83] Order F26-15, 2026 BCIPC 19 (CanLII) at para 83.
[84] BC Ferries' initial submission at para 64.
[85] Applicant's response submission at 4, 9, 13-15, and 17.

Unfair damage to reputation – s. 22(2)(h)

[79] Section 22(2)(h) asks whether disclosure may unfairly damage the reputation of any person referred to in the records.

[80] BC Ferries says s. 22(2)(h) supports its decision to withhold information, but again it does not explain how or indicate which information may damage a third party's reputation.[86] The applicant does not directly address this point.

[81] In Order F25-12, the adjudicator found s. 22(2)(h) applied to an applicant's allegations of workplace impropriety against third parties because the allegations would damage the third parties' reputation. Further, since the records contained no detail about the third parties' side of the story or the outcome of any processes that may have taken place, the adjudicator found such damage would be unfair.[87] In light of similar circumstances in this case, I make the same finding with respect to the information in category 1. I also find that s. 22(2)(h) applies to the information in category 14 about the banned passenger because that information is likely to damage the person's reputation. Given that there is no contextual information accompanying the withheld information, I also find that such reputational damage would be unfair. For these reasons, I find that s. 22(2)(h) weighs against disclosure of those categories of information.

Applicant's own personal information

[82] The applicant says BC Ferries may have applied its redactions too broadly where the information at issue is her own personal information.[88]

[83] Previous orders have found that where information is the applicant's own personal information, this will favour its disclosure. However, the weight of this factor is limited where the information is simultaneously the applicant's and that of third parties.[89]

[84] I found above that much of the withheld information is the personal information of both the applicant and one or more third parties – for example, the category 1 information is simultaneously the applicant's and that of the third parties about whom she writes. Similarly, the category 2 information is the personal information both of its authors and of the applicant.

[85] I find this to be a factor favouring disclosure of most of the withheld personal information, but I give it only moderate weight considering the intertwined nature of the applicant's and third parties' personal information.

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[86] BC Ferries' initial submission at para 64.
[87] Order F25-12, 2025 BCIPC 14 (CanLII) at paras 73-74.
[88] Applicant's response submission at 10.
[89] Order F26-81, 2026 BCIPC 101 (CanLII) at para 100, and the orders cited therein.

Applicant's knowledge and authorship

[86] The applicant says she already possesses many of the records from which BC Ferries has withheld information and is "fully aware of the workplace events, individuals and surrounding circumstances they describe".[90] BC Ferries says this is only one factor in determining whether the disclosure of personal information is an unreasonable invasion of third-party privacy, and other relevant factors weigh heavily against disclosure.[91]

[87] I have no doubt that the applicant knows much of the withheld information. For example, in many cases, she authored the emails in which the information appears. In the case of the category 29 information, the applicant herself supplied the beneficiary designations. I find that this factor favours disclosure of all the information the applicant could reasonably be expected to know.

Third party's professional capacity

[88] The applicant says the disclosure of signatures given in a person's professional capacity is not automatically an unreasonable invasion of their privacy.[92]

[89] The category 27 information consists of signatures, initials, and an MSP number belonging to non-employees. I find that these were given in these third parties' professional capacities. Previous orders have found this factor to weigh in favour of disclosure, and I draw the same conclusion here in respect of the category 27 information.[93]

Sensitivity of information

[90] The sensitivity of personal information may be a factor relevant to whether its disclosure would be an unreasonable invasion of privacy. Previous orders have held that where personal information is especially sensitive, this may weigh against disclosure, but where the information is not sensitive, this may favour disclosure.[94]

[91] I find that some of the withheld information is not sensitive in nature. For example, I do not find the information in category 21, which consists of a photo of uniformed BC Ferries employees, to be sensitive. I likewise do not consider the information in category 5 and some of the information in category 6 to be sensitive. In addition, the information in categories 13 and 16 reveal no more

[90] Applicant's response submission at 10.
[91] BC Ferries' reply submission at para 22.
[92] Applicant's response submission at 11.
[93] See, e.g., Order F25-02, 2025 BCIPC 2 (CanLII) at paras 92-93.
[94] Order F21-68, 2021 BCIPC 79 (CanLII) at para 94.

than the fact that particular employees were working on certain stations or assignments on a particular day.[95]

[92] Conversely, I find that much of the personal information, including the workplace complaints made by or about third parties, is sensitive in nature. I find that this factor weighs against the disclosure of that information.

Conclusion on s. 22(1)

[93] I have found that most, but not all, of the withheld information is the personal information of third parties. I have found that s. 22(4)(e) applies to some of the personal information, so that its disclosure is not an unreasonable invasion of third-party privacy. On the other hand, I have also found that the presumptions set out in ss. 22(3)(a), (d), or (g) apply to most of the personal information, which means that disclosure is presumptively an unreasonable invasion of third parties' personal privacy.

[94] Taking all of the matters discussed above into consideration, I find that disclosure of most of the information BC Ferries withheld under s. 22(1) would be an unreasonable invasion of third-party privacy. While there are some factors favouring disclosure, I do not find these to have overcome the presumptions that apply to most of the information.

[95] However, I find that disclosure of the information in categories 5, 7, 11, 13, 16, 17, 19, 21, 24, 26, 27, 29, 30, 31, some of the information in category 6, and most of the information in category 33 would not be an unreasonable invasion of third-party privacy. This is information to which no s. 22(3) presumption applies, and the applicable factors favouring disclosure persuade me that disclosure would not be an unreasonable invasion of third-party privacy.

[96] As for the remainder of the information to which no presumption applies, I find the applicant has not met her burden of establishing that disclosure of the information would not be an unreasonable invasion of third-party privacy, either because the applicant cannot reasonably be expected to know the information, the information is not the applicant's personal information, or it is unclear from the context how sensitive the information is.

Summary of information – s. 22(5)

[97] Section 22(5) provides that where a public body refuses to disclose personal information supplied in confidence about an applicant, the public body must give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information.

[95] For a similar finding, see Order F20-38, 2020 BCIPC 44 (CanLII) at para 81.

[98] The applicant says that where BC Ferries has withheld personal information supplied in confidence about her, it has not provided any summaries of the information under s. 22(5).[96]

[99] BC Ferries says that given the nature of the information requested, it is almost certain that a summary of the information would reveal the identity of the person who supplied it.[97]

[100] I agree with BC Ferries on this point. I can see that the withheld information that has been supplied by third parties about the applicant relates to incidents that would make the third party's identity unmistakable to the applicant if she received a summary of that information. I therefore find that s. 22(5) does not require BC Ferries to prepare a summary of any of the personal information supplied in confidence.

CONCLUSION

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

1. I confirm BC Ferries' decision to refuse the applicant access to information under s. 3(3)(h).

2. I confirm BC Ferries' decision to refuse to disclose the information it withheld under s. 13(1).

3. BC Ferries is required to refuse to disclose some of the information it withheld under s. 22(1). This information is either not highlighted, or highlighted in green,[98] as applicable, in the copy of the records package that is provided to BC Ferries with this order.

4. BC Ferries is not required under s. 22(1) to refuse to disclose the information I have highlighted in pink in the copy of the records package that is provided to BC Ferries with this order.[99]

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[96] Applicant's response submission at 4, 9, and 13-15.
[97] BC Ferries' reply submission at paras 15-16.
[98] At pages 1918-1924 of the records package.
[99] At pages 43, 98, 101, 121, 126, 149, 181, 186, 291, 307, 345, 393, 407-409, 416, 452-453, 466, 477, 480-483, 506, 512-514, 524, 527, 531-533, 540-541, 546, 558-559, 583, 592, 594-597, 599-604, 606, 609-610, 612-615, 617, 620-622, 624, 626-636, 638-641, 643-645, 659-661, 665, 705, 766, 771, 847, 935, 938, 946, 953, 960, 969, 976, 980, 982, 986, 1008, 1011, 1013, 1036, and 1918-1924 of the records package.

5. BC Ferries must give the applicant access to the information it is not required or authorized to refuse to disclose.

6. Under s. 58(4), BC Ferries must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicant, together with a copy of the information it discloses in compliance with items 4 and 5 above.

[102] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by December 11, 2026.

October 29, 2026

ORIGINAL SIGNED BY

David S. Adams, Adjudicator

OIPC File No.: F24-98543