



Order P23-12

## DEXTERRA GROUP INC.

Erika Syrotuck  
Adjudicator

September 21, 2023

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**Summary:** An individual complained that an organization contravened the *Personal Information Protection Act* (PIPA) when it disclosed information about her to the lawyer of the parties opposing her in a legal dispute. The adjudicator found that the organization disclosed personal information but PIPA did not permit the disclosure. More specifically, the adjudicator found that PIPA did not deem the complainant to have consented to the disclosure of her personal information or permit the disclosure without her consent.

**Statutes Considered:** *Personal Information Protection Act*, [SBC 2003], c. 63, ss. 2, 3(4), 6, 8(1), 17, and 18(1)(c).

### INTRODUCTION

[1] This inquiry is about a complaint that Dexterra Group Inc. (Dexterra) contravened the *Personal Information Protection Act* (PIPA) when it disclosed information about the end of the complainant's employment to the lawyer of the parties opposing her in a legal dispute.

[2] The complainant asked the Office of the Information and Privacy Commissioner (OIPC) to investigate. Mediation by the OIPC did not resolve the issue and the matter proceeded to inquiry.

### ISSUE

[3] At this inquiry, I must decide whether Dexterra disclosed personal information in contravention of PIPA.<sup>1</sup>

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<sup>1</sup> This is not the exact wording that was in the notice of inquiry. I have re-worded the issue for precision and clarity.

## DISCUSSION

### Background

[4] The complainant was an employee of a subsidiary company of Dexterra (Subsidiary). As an employee of the Subsidiary, the complainant was part of a union (Union).

[5] At the time she was still employed, the complainant filed a notice of claim in the BC Provincial Court (Claim) against two of her co-workers (Third Parties).<sup>2</sup> In the Claim, the complainant alleged that the Third Parties conspired by lawful means to cause her economic and emotional harm. More specifically, the complainant alleged that the Third Parties made statements to their employer for the predominant purpose of interfering with her employment and that their statements contributed to the fact that she received unjustifiable discipline.<sup>3</sup>

[6] In responding to the Claim, the Third Parties retained lawyers. They filed a reply to the Claim in which they denied all liability.<sup>4</sup>

[7] About a month after the Third Parties filed their reply, the Subsidiary terminated the complainant's employment.

[8] Shortly after that, one of the lawyers for the Third Parties (Lawyer) contacted Dexterra. The Lawyer says he spoke to Dexterra's labour relations and employment relations director (Director) about the reasons for the termination of the complainant's employment. From that conversation, the Lawyer says he learned that the complainant had been disciplined for comments she made in the workplace and that the discipline was reduced through a settlement achieved by the Union, that Dexterra had investigated the Third Parties, and that the reasons for the termination of the complainant's employment did not relate to the Third Parties' comments.<sup>5</sup> He requested documents from the Director relating to those matters.

[9] In response, the Lawyer says Dexterra provided him with the following documents:

- A copy of Dexterra's letter to the complainant terminating her employment, which set out the reasons for the termination (Termination Letter);

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<sup>2</sup> The complainant provided the first page of the Claim along with her initial submissions. The Lawyer provided a complete copy as Exhibit A to his affidavit.

<sup>3</sup> The Claim as found in Exhibit A of the Lawyer's affidavit.

<sup>4</sup> The Lawyer provided a complete copy of the reply as Exhibit B to his affidavit.

<sup>5</sup> Lawyer's affidavit, para 13.

- A copy of the settlement agreement between the Union and the Subsidiary resolving the discipline that preceded the complainant's termination (Settlement Agreement);
- A copy of the Subsidiary's Respectful Workplace Policy;
- A copy of emails from the complainant to the Subsidiary's management team accusing the Third Parties (and others) of writing false statements about her that caused her to be disciplined (Emails).<sup>6</sup>

[10] The complainant's submissions indicate that she believes Dexterra violated PIPA when it gave the Termination Letter, the Settlement Agreement and the Emails to the Lawyer and when the Director spoke about her on the phone to the Lawyer.<sup>7</sup> These are the actions that are the subject of this inquiry.

### ***Disclosure under PIPA***

[11] Section 6(1)(c) says that an organization must not disclose personal information about an individual. However, under s. 6(2), s. 6(1)(c) does not apply if,

- (a) the individual gives consent to the collection, use or disclosure,
- (b) PIPA authorizes the collection, use or disclosure without the consent of the individual, or
- (c) PIPA deems the collection, use or disclosure to be consented to by the individual.

[12] In addition, under s. 17, the disclosure must be for purposes that a reasonable person would consider are appropriate in the circumstances and that

- (a) fulfill the purposes that the organization discloses under section 10 (1),
- (b) for information collected before this Act comes into force, fulfill the purposes for which it was collected, or
- (c) are otherwise permitted under this Act.

[13] I find that when the Director spoke on the phone about the complainant and when he sent the Termination Letter, the Settlement Agreement and the Emails to the Lawyer, the Director disclosed information within the meaning of PIPA. The parties do not dispute that this is what occurred.

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<sup>6</sup> Lawyer's affidavit, para 15; documents attached as Exhibit D.

<sup>7</sup> Paragraph 3 of the Investigator's Fact Report only mentions the Termination Letter, Settlement and Emails as the subject of the complaint. However, Dexterra clearly believes that the verbal information is at issue as well because it included it in its description of the disclosure at issue in this inquiry; see paragraph 7 of Dexterra's response submissions.

[14] The parties only made arguments about whether PIPA deemed the complainant to consent to the disclosure (s. 6(2)(c)) and whether PIPA authorized the disclosure without consent (s. 6(2)(b)). These are the only provisions I will consider.<sup>8</sup>

*Section 3(4)*

[15] Dexterra submits that s. 3(4) of PIPA applies. Section 3(4) says:

This Act does not limit the information available by law to a party to a proceeding.

[16] In Order P20-03, the OIPC confirmed that this provision does not authorize an organization to collect, use or disclose information.<sup>9</sup> Rather, it functions as an interpretive guide.

[17] In that vein, Dexterra says that s. 3(4) “expressly establishes that [PIPA] should not be interpreted or applied in a manner that would prevent parties from accessing information or evidence that is relevant or necessary for use in legal proceedings.”<sup>10</sup> It says that PIPA should not prevent litigants from obtaining relevant evidence from a third party, including an organization, without a court order. Dexterra says that, where a third party has information relevant to litigation, privacy interests are outweighed by the public interest in getting at the truth and at litigation operating efficiently. It says that s. 3(4) makes clear that PIPA should not be interpreted in a way that renders privacy concerns paramount to the administration of justice.

[18] In my view, Dexterra overstates the scope and purpose of s. 3(4) because it does not adequately acknowledge the meaning of the words “available by law.”

[19] As the OIPC’s Director of Adjudication explained in Order P20-03,

[Section 3(4)] ensures that the restrictions in PIPA are not interpreted so as to prevent a party to a proceeding from accessing information they are entitled to access in the course of a proceeding. The language of s. 3(4) merely provides reassurance that PIPA does not restrict the availability of information to a party to a proceeding where that information is available by law. Put another way, this provision ensures that PIPA does not interfere with, or override, statutory or common law processes or rules that make information available to a party to a proceeding.<sup>11</sup>

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<sup>8</sup> No party submitted the complainant expressly consented to the disclosure and therefore that s. 6(2)(a) applies. I will not consider that provision.

<sup>9</sup> Order P20-03, 2020 BCIPC 21 at para 44.

<sup>10</sup> Dexterra’s response submissions, para 12.

<sup>11</sup> Order P20-03, 2020 BCIPC 21 at para 44.

[20] This means that the effect of s. 3(4) is not that PIPA cannot limit the information available to a party to a proceeding. Rather, it only ensures that PIPA does not interfere with other legal processes that make information available to a party to a proceeding. For example, in Order P20-03, the Director of Adjudication found that the British Columbia Human Rights Tribunal's rules were "law" that made information available to a party to a proceeding and decided that PIPA should not be interpreted in a way that constrained what a party could do under those rules.<sup>12</sup>

[21] I do not think that s. 3(4) is applicable to the disclosure in this inquiry. Dexterra did not identify a statutory or common law process or rule that made the information at issue in this inquiry available to the Third Parties. Further, nothing before me indicates that my decision in this inquiry could restrict or interfere with any law that makes information available to a party to a proceeding. As a result, I find that s. 3(4) does not affect how I interpret the disclosure provisions at issue in this inquiry.

***Is the information at issue the complainant's personal information?***

[22] Next, I must decide whether the information at issue is "personal information" under the definitions in PIPA.

[23] Under s. 1 of PIPA, "personal information" means information about an identifiable individual and includes employee personal information but does not include "contact information" or "work product information." These terms are also defined in s. 1 as follows:

"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;

"work product information" means information prepared or collected by an individual or group of individuals as a part of the individual's or group's responsibilities or activities related to the individual's or group's employment or business but does not include personal information about an individual who did not prepare or collect the personal information.

[24] Neither the complainant nor Dexterra made any submissions specifically addressing whether the information is "personal information" as PIPA defines that term.

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<sup>12</sup> *Ibid* at paras 68 and 78.

[25] I find that the information that the Director verbally disclosed on the phone to the Lawyer is personal information.<sup>13</sup> Although I do not know exactly what the Director said, the Lawyer’s evidence about the phone conversation is enough to satisfy me that the Director disclosed identifiable information about the complainant.<sup>14</sup>

[26] I also find that the information in the Termination Letter, the Settlement Agreement and the Emails is the complainant’s personal information. I can see that the information is clearly about the complainant and her employment with the Subsidiary.

[27] Although the information is connected to workplace matters, I find that it is not “work product information” as PIPA defines that term. The verbal information, the Termination Letter and the Settlement Agreement are not work product information because the complainant did not prepare or collect the information in them. Although the complainant prepared the Emails by writing them, I find that she did not do so as part of her responsibilities or activities related to her employment. Rather, the Emails were about interpersonal conflicts between her and the Third Parties that happened at work.

[28] I also find that none of the information is “contact information.”

[29] In summary, I am satisfied that the information in dispute is the complainant’s personal information.

### **Section 8 – deemed consent to disclose**

[30] Section 8 of PIPA sets out circumstances where PIPA deems an individual to have consented to the collection, use and disclosure of their personal information. Dexterra only made arguments about s. 8(1). This provision says:

- 8(1) An individual is deemed to consent to the collection, use or disclosure of personal information by an organization for a purpose if
  - (a) at the time the consent is deemed to be given, the purpose would be considered to be obvious to a reasonable person, and
  - (b) the individual voluntarily provides the personal information to the organization for that purpose.

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<sup>13</sup> In Order P19-03, 2019 BCIPC 42 (CanLII) at para 35, the adjudicator found that personal information under PIPA includes information about an identifiable individual, even if the information is unrecorded.

<sup>14</sup> Lawyer’s affidavit at para 13. I have reproduced the Lawyer’s evidence below at para 47.

[31] Both ss. 8(1)(a) and (b) must be met in order for an individual to have been deemed to have consented under s. 8(1).

[32] Dexterra says that, by commencing the Claim, the complainant implicitly consented to the disclosure of her personal information in connection with her employment.

[33] More specifically, Dexterra says that the complainant voluntarily commenced the Claim against the Third Parties, alleging that they had deliberately interfered with her employment by making negative comments about her to Dexterra. It says that whether the Third Parties actually harmed or interfered with the complainant's relationship with her employer was directly relevant to the Claim. Dexterra says that the Third Parties could not have made full answer and defense to the Claim without contacting Dexterra to ascertain whether the alleged interference had taken place, and to what extent it was attributable to the Third Parties.

[34] Similarly, Dexterra says that the reasons for her termination were directly relevant to the scope and extent of the damages available to the complainant in the Claim. Dexterra says that any reasonable person would understand that Dexterra would need to be contacted in order to establish or disprove her claims.

[35] Dexterra relies on Order P20-03 for the proposition that a plaintiff who commences a legal claim implicitly consents to the collection, use and disclosure of their personal information as necessary for the adjudication of their claims.<sup>15</sup>

[36] The complainant says that filing the Claim was not implied consent for Dexterra to disclose her personal information. The complainant says that, when an employee files a claim against an employer, Dexterra's argument would be valid because the employer would be a party to the proceeding. I understand the complainant's argument to be that, since Dexterra was not a party to the proceeding relating to the Claim, PIPA did not deem her to have given consent to Dexterra to disclose her personal information.

*Analysis – deemed consent*

[37] I find that PIPA did not deem the complainant to consent to the disclosure of her personal information because the requirements of s. 8(1)(b) are not met. Section 8(1)(b) requires that the individual voluntarily provide the personal information to the organization.

[38] First, the complaint did not "provide" the personal information at issue to Dexterra. Rather, based on my review of the records, I conclude Dexterra

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<sup>15</sup> Dexterra's initial submissions, para 25 citing Order P20-03, 2020 BCIPC 21 (CanLII) at paras 47-60.

created the personal information in relation to her employment. Section 8(1)(b) is not met on this basis alone.

[39] In any case, Dexterra's argument also fails because Dexterra was not a party to that proceeding. So, to the extent that the complainant voluntarily provided her personal information for the purpose of the Claim, she provided it to the Third Parties, not Dexterra.

[40] For these reasons, I find that s. 8(1) does not deem the complainant to have consented to the disclosure of the personal information at issue in this inquiry.

### ***Section 18 – disclosure without consent***

[41] Section 18 permits an organization to disclose personal information about an individual without that individual's consent in specific circumstances.

[42] In this case, Dexterra submits that s. 18(1)(c) permitted it to disclose the complainant's personal information to the Lawyer. This section says:

18(1) An organization may only disclose personal information about an individual without the consent of the individual, if

...

- (c) it is reasonable to expect that the disclosure with the consent of the individual would compromise an investigation or proceeding and the disclosure is reasonable for purposes related to an investigation or a proceeding,

[43] Section 1 defines "investigation" and "proceeding." The parties' arguments only relate to the definition of "proceeding". That definition says:

"proceeding" means a civil, a criminal or an administrative proceeding that is related to the allegation of

- (a) a breach of an agreement,
- (b) a contravention of an enactment of Canada or a province, or
- (c) a wrong or a breach of a duty for which a remedy is claimed under an enactment, under the common law or in equity;

### ***Dexterra's submissions***

[44] Dexterra says that disclosure with the complainant's consent would compromise a proceeding within the meaning of s. 18(1)(c).<sup>16</sup>

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<sup>16</sup> Dexterra did not argue that disclosure with the complainant's consent would compromise an investigation and so I did not consider whether it did.



[45] Dexterra says that the disclosure was made for the purpose of assisting the Third Parties, who were parties to a “proceeding” as PIPA defines that term, and the Lawyer in making a full answer and defence to the allegations in the Claim. It says that, if the personal information at issue was not available to the Third Parties, or if the Lawyer had been required to obtain the complainant’s consent to obtain it, this would have “compromised the proceeding” within the meaning of s. 18(1)(c) of PIPA.

[46] To support its argument, Dexterra provided affidavit evidence from the Lawyer. The Lawyer says that he requested documents relating to the legal dispute between the complainant and the Third Parties from Dexterra. In particular, the Lawyer says that, since the complainant alleged in the Claim that the actions of the Third Parties caused irreparable harm to her career, the Lawyer expected that during the litigation, the complainant would point to her termination as evidence of the damages she had suffered due to the Third Parties’ alleged conspiracy to cause her economic and emotional harm.<sup>17</sup>

[47] The Lawyer then says:

Given [the complainant’s] allegations and her recent termination, I determined it was important to prepare a full defence of my clients in the litigation, to determine the actual reasons for Dexterra to terminate [the complainant’s employment].

Accordingly, in or about [Date], I spoke by telephone with [the Director], about the reasons for [the complainant’s] termination of employment.

During our phone call, I was led to understand that:

- (a) [the complainant] initially had been disciplined for various comments she made in the workplace and the discipline had been reduced by Dexterra in a settlement achieved for her by her Union;
- (b) Dexterra had investigated [the complainant’s] allegations that my clients had made false allegations about her that caused her to be disciplined and found that there was no basis for [the complainant’s] allegations against my clients; and
- (c) The reasons for [the complainant’s] termination did not relate to the comments my clients made about her to Dexterra.

Following my phone call with [the Director], I sent an email to him on [date] confirming my request for documents relating to the foregoing matters.<sup>18</sup>

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<sup>17</sup> Lawyer’s affidavit, para 10.

<sup>18</sup> Lawyer’s affidavit, paras 11 -13.

[48] The Lawyer provided a copy of his email requesting the information from the Director and the email with the Director's response.<sup>19</sup> The Lawyer's request states, in part:

We understand from our clients that [the complainant's] employment was terminated. Can you please advise and if you are able to provide us any information from the arbitration process that could be of benefit to the civil claims, we would be appreciative.

[49] The Director responded:

Please find attached a copy of the termination letter which clearly denotes the [employer's] position with respect to her conduct and behaviour. I have also attached a copy of the Settlement Agreement pertaining to the grievances which were to be decided through scheduled arbitration, as well as the applicable policy.

I have included [a] copy of an email submitted outlining her claims which had been investigated and found to her [sic] no basis.

[50] Dexterra says that the personal information in the Termination Letter, the Settlement Agreement and the Emails was directly relevant to the complainant's allegations in the Claim because it demonstrates that Dexterra terminated her employment based on her own conduct, not the statements made by the Third Parties.

[51] Dexterra says the disclosure of the complainant's personal information to the Lawyer was not only reasonable, but necessary and appropriate. It says that the Third Parties faced personal liability as a result of a conflict that arose in the workplace and were compelled to address the Claim. It says that, as their employer, it was reasonable to provide the information at issue for the fair adjudication of the Claim.

[52] Dexterra says that s. 18(1)(c) cannot have been intended to prevent a litigant from obtaining relevant evidence pertaining to an adverse litigant from a third party unless they first seek and receive consent. If that were the case, Dexterra says that counsel would then have to obtain a court order to receive documents and compel oral discovery of third parties before trial in order to obtain relevant evidence. This would add considerable cost and delay, which would compromise the proceedings. It says that, if this were the case, litigants may be compelled to abandon the effort to obtain relevant evidence.

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<sup>19</sup> Exhibit C to the Lawyer's affidavit.

*The complainant's submissions*

[53] The complainant says that PIPA did not permit Dexterra to disclose her personal information, even if interpreted in the way it suggests.

[54] First, the complainant says that it was not necessary to disclose the personal information at issue because it was false. She says that the Termination Letter is false because the termination was not a result of her own actions. She says that all the Termination Letter proves is what Dexterra was falsely claiming, not why she was actually terminated. She says she was terminated in retaliation for filing a WorkSafe BC claim.<sup>20</sup>

[55] The complainant says that the information in the Settlement Agreement was not relevant to the information that the Lawyer wanted, which was information showing that the Third Parties' actions did not relate to the reasons she was terminated. Rather, it contains information on "other unwarranted disciplines that the [Third Parties] had no business knowing about."<sup>21</sup>

[56] With regards to the Emails, the complainant says she has no idea why the Director would disclose them because they are not relevant.

[57] The complainant also says that Dexterra does not explain what the Director was thinking at the time he disclosed the complainant's personal information to the Lawyer. The complainant says that it is "the facts at the time of the disclosure that matter and not the Third Parties' excuse for asking for it."<sup>22</sup> The complainant argues that the emails between the Lawyer and the Director indicate that Lawyer did not tell the Director that he wanted information on her termination in anticipation of what she might bring into issue about damages regarding the Claim, rather he simply asks for any information without explaining how it was relevant.

[58] The complainant submits that there was no way that the Director was contemplating issues related to the Claim such as what evidence was relevant, what would be needed for a full answer and defence, or possible remedies. The complainant says the Director is not a lawyer and the conversation took place only six days after her employment was terminated.

[59] The complainant also says there was no way the Director was thinking about how PIPA would apply.

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<sup>20</sup> The complainant provided a copy of her complaint to WorkSafeBC and a copy of the resulting WorkSafeBC decision.

<sup>21</sup> Complainant's reply submissions, para 52.

<sup>22</sup> Complainant's reply submissions, para 46.

[60] Finally, the complainant submits that the Lawyer's evidence is not credible. The complainant says that, in his email to the Director, the Lawyer mentions the termination as though it was for the first time even though he says he spoke with the Director on the phone about the reasons for her termination prior to sending the email. She says the email shows they had not spoken about the termination before the email. I understand the complainant to be saying that I should disregard or give no weight to the Lawyer's evidence in this inquiry.

*Interpretation of. 18(1)(c)*

[61] As I set out above, s. 18(1)(c) has two parts and both must be met in order to authorize an organization to disclose personal information without consent:

1. It is reasonable to expect that disclosure with the consent of the individual would compromise an investigation or proceeding; and
2. The disclosure is reasonable for purposes related to an investigation or proceeding.

[62] Regarding the interpretation of this provision, Dexterra says that s. 18(1)(c) cannot have been intended to prevent a litigant from obtaining relevant evidence pertaining to an adverse litigant from a third party unless they first seek and receive consent. The complainant did not make specific arguments on how to interpret this provision.

[63] First, I think that the phrase "it is reasonable to expect..." in s. 18(1)(c) means that it must be reasonable for the organization to expect that disclosure would compromise an investigation or proceeding. The purpose of PIPA (in part) is to govern how organizations collect, use, or disclose personal information.<sup>23</sup> In my view, it is not possible to give effect to that purpose without assessing an organization's reasons for collecting, using, or disclosing personal information, as the case may be. Assessing s. 18(1)(c) in this way is consistent with how past adjudicators, including former Commissioner Loukidelis have applied this phrase. For example, in Order P06-05 former Commissioner Loukidelis clearly considered both the organization's belief and whether that belief was reasonable, as evidenced by the following finding:

I also find there was a reasonable basis for the organization to expect that, had it sought consent to collection, use or disclosure of personal information, seeking their consent would have compromised the availability or the accuracy of personal information in the emails.<sup>24</sup>

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<sup>23</sup> Section 2.

<sup>24</sup> Order P06-05, 2006 CanLII 92912 (BCIPC) at para 38.

[64] In this way, I think that s. 18(1)(c) requires me to assess both the organization's reasons for disclosing the personal information and whether the basis for its decision was reasonable.

[65] In my opinion, s. 18(1)(c) was meant to permit disclosure where seeking consent (either express or deemed) under PIPA could reasonably be expected to compromise an investigation or proceeding. For example, I think that the requirement that "it is reasonable to expect that disclosure with the consent of the individual would compromise an investigation or proceeding" could be met if the organization can show that it is reasonable for it to expect that the investigation or proceeding would be compromised if it depended on the individual's consent to disclose the personal information.

[66] Interpreting the first part of s. 18(1)(c) also requires me to consider the meaning of "compromise." The only other provisions in PIPA that use this language are ss. 12(1)(c) and 15(1)(c), which are the corresponding provisions about collection and use.

[67] Section 18 sets out circumstances where an organization can disclose personal information about an individual without their consent. When looking at the whole provision, it is clear that the circumstances in s. 18 are specific and narrow. Considering this context, the plain meaning, and the purpose of PIPA, I think the meaning of "compromise" in s. 18(1)(c) is something similar to "impair" or "jeopardize."

[68] Finally, in my opinion, the second part of the test asks the organization (and the commissioner on review) to determine whether it is reasonable to disclose the specific personal information at issue for purposes related to an investigation or proceeding.

*Analysis – s. 18(1)(c)*

[69] First, I find that the litigation commenced by the Claim was a "proceeding" under (c) of the definition in s. 1 of PIPA. The documents relating to the Claim show that complainant claimed a remedy under the common law.

[70] However, for the reasons that follow, I am not satisfied that it was reasonable for Dexterra to expect that disclosure with the complainant's consent would compromise the proceeding related to the Claim.

[71] This inquiry is about whether PIPA permitted Dexterra to disclose the complainant's personal information. However, as the complainant points out, Dexterra's submissions focus almost entirely on the Lawyer's reasons for asking for the personal information. Whether PIPA authorizes one organization to collect information is an entirely separate issue from whether it authorizes another

organization to disclose it.<sup>25</sup> In my view, the Lawyer's evidence about why he collected the personal information is relevant only insofar as it is capable of showing why the Director disclosed it. However, the complainant says that the Lawyer's evidence is not credible.

[72] After considering the complainant's submissions and closely examining the evidence, I am not satisfied that the Lawyer's evidence is not credible. I do take the complainant's point that when the Lawyer said, "We understand from our clients that [the complainant's] employment was terminated," one could read this like it was new information because of the way it was phrased. However, I think it is equally plausible that the Lawyer was re-iterating information he had already discussed with the Director. I am not persuaded the Lawyer's evidence is not credible due to the way he phrased his email to the Director. I do not see this as a reason to disregard or reduce the weight of the Lawyer's evidence.

[73] After carefully reviewing the Lawyer's evidence, I am satisfied that the Director knew about the Claim and that it related to whether the Third Parties' actions contributed to the Subsidiary's decision to dismiss the complainant. I also find that the Director understood that the Lawyer was asking for information to use in the proceeding related to the Claim.

[74] However, there is nothing to suggest that the Director considered whether disclosure with the complainant's consent would compromise the proceeding. For example, nothing before me indicates that the Director considered how letting the complainant control the flow of information to the Third Parties would impact the proceeding itself. Similarly, there is no evidence that the Director considered the fact that the complainant would have a copy of the Termination Letter and the Emails and whether there were alternate ways for the Third Parties to obtain that information for use in the proceeding.

[75] Given the lack of evidence about how and why the Director decided to disclose the personal information, I cannot conclude that it was reasonable for Dexterra to have expected that the proceeding related to the Claim would be compromised if it depended on the complainant's consent to disclose the personal information.

[76] In conclusion, I find that the first part of the test under s. 18(1)(c) is not met. As a result, I find that s. 18(1)(c) did not permit Dexterra to disclose the complainant's personal information without her consent.

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<sup>25</sup> Under s. 10(2), when one organization seeks to collect personal information from another organization without consent, it is the disclosing organization's responsibility to determine whether PIPA permits it to make the disclosure.

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**Conclusion under s. 6**

[77] As I found that PIPA did not deem the complainant to have consented to the disclosure and that PIPA did not permit Dexterra to disclose the complainant's personal information without her consent, I find that s. 6 did not authorize Dexterra to disclose the complainant's personal information to the Lawyer. For the same reason, I do not need to consider whether the requirements of s. 17 are met.

**CONCLUSION**

[78] For the reasons above, I find that PIPA did not authorize Dexterra to disclose the complainant's personal information to the Lawyer. Pursuant to s. 52(3)(e), and I require Dexterra to stop disclosing the complainant's personal information in contravention of PIPA.

September 21, 2023

**ORIGINAL SIGNED BY**

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Erika Syrotuck, Adjudicator

OIPC File No.: P21-85712