



Order P26-05

**ALTRAD SERVICES LTD.**

Carol Pakkala  
Adjudicator

April 15, 2026

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Quicklaw Cite: [2026] B.C.I.P.C.D. No. 35

**Summary:** A former employee complained that Altrad Services Ltd. (Altrad) violated the *Personal Information Protection Act* (PIPA) by inappropriately collecting, using, and disclosing his personal information. The alleged violations arose from a drug dog search at a job site and a subsequent demand to submit to drug and alcohol testing. The adjudicator concluded Altrad had not met the consent requirements under s. 6 and was therefore not authorized to collect or use the personal information. The adjudicator further found there was insufficient evidence to find that Altrad disclosed any of the complainant's personal information.

**Statutes Considered:** *Personal Information Protection Act*, [SBC 2003], c. 63, ss. 1, 5(a), 6, 7, 8, 10, 11, 12, 13, 14, 15, and 16.

**INTRODUCTION**

[1] This inquiry decides a complaint by a former employee (complainant) of Altrad Services Ltd. (Altrad). The complaint alleges Altrad violated the *Personal Information Protection Act* (PIPA)<sup>1</sup> by inappropriately collecting, using, and disclosing his personal information and by failing to develop and follow policies and practices necessary to meet its obligations under PIPA.

[2] Investigation and mediation by the Office of the Information and Privacy Commissioner (OIPC) did not resolve the complaint, and it proceeded to this inquiry. Both parties provided submissions in this inquiry.

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<sup>1</sup> From this point forward, unless otherwise specified, where I refer to section numbers, I am referring to sections of PIPA.

## Background<sup>2</sup>

[3] At the time of the events leading to this complaint, Altrad was a subcontractor on an LNG Canada project. Altrad was engaged by the general contractor, JGC Fluor LNG JV (JFJV).

[4] The project involves the construction of a liquefied natural gas processing plant in Kitimat, BC (the Project). The Project is a controlled access site, and security personnel monitor the points of entry.

[5] The complainant is a former employee of Altrad who worked as a painter on the Project. Along with other employees, the complainant was an occupant of an Altrad vehicle when it was subjected to a random drug dog search by security personnel at an entry point to the Project site.

[6] Altrad used the information from the drug dog search to require the complainant to submit to a drug and alcohol test.<sup>3</sup> The complainant refused to submit to testing and his refusal was recorded as a positive test result.

[7] Due to the above events, Altrad terminated the complainant's employment and JFJV banned him from the Project site.

## Preliminary matters

### *Jurisdiction*

[8] In their submissions, both parties devote considerable time to the labour relations realities of the Project. As I will discuss in more detail below, Altrad argues that this complaint was effectively filed by the Bargaining Council of British Columbia Building Trades Unions (Union) to launch a collateral attack against policies in place at the Project.

[9] Labour arbitrators have broad jurisdiction over disputes arising under a collective agreement.<sup>4</sup> In light of this, I considered whether a labour arbitrator should decide the issues in this complaint.

[10] The complainant was an employee of Altrad. The search at issue took place on June 14, 2023. The parties agree that a collective agreement between Altrad and the International Union of Painters and Allied Trades, Local 138 (Local

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<sup>2</sup> These background facts were taken from the OIPC's Fact Report and the submissions of the parties and are not in dispute. Instead, the dispute centers around how PIPA applies and who is responsible for the events that took place, not whether they, in fact, took place.

<sup>3</sup> Altrad specifically admits the use of information at para 35 of its submission.

<sup>4</sup> *Weber v. Ontario Hydro*, 1995 CanLII 108 (SCC).

138) did not come into effect until July 7, 2023.<sup>5</sup> In these circumstances, I find that the complainant's employment was not governed by a collective agreement at the time of the search and demand for testing. For this reason, I am satisfied that I do not need to consider the jurisdictional issue any further, and that I do have jurisdiction to consider this complaint.

[11] In arriving at this decision, I wish to be clear that my jurisdiction is limited to deciding the complainant's complaint that Altrad violated PIPA. I do not have jurisdiction to decide the parties' broader labour relations disputes.

#### *Consolidation of related matters*

[12] Altrad identifies that there are multiple complainants and complaints to the OIPC arising out of the factual circumstances described above. Altrad says all the complaints should be consolidated with this one into a single inquiry.<sup>6</sup> Altrad says that, given the potential impact of any decision by the OIPC, there is no legitimate reason why the inquiries for all the complaints should not be heard at the same time.<sup>7</sup>

[13] Altrad takes the position that all the complaints to the OIPC were filed by the Union and, at their core, challenge the Project site access and drug and alcohol testing policies and procedures applicable to *all* contractors working on the Project.<sup>8</sup>

[14] Altrad says the purpose of all the complaints is to collaterally attack an established site access and drug and alcohol testing regime that the Union has previously agreed to adopt for the Project. Altrad says it was not involved in the negotiations for that regime and yet is the only party being targeted.<sup>9</sup>

[15] The complainant says the OIPC does not have jurisdiction, under ss. 38 or 50 of PIPA, to consolidate inquiry proceedings.<sup>10</sup> The complainant further says that while all the complaints arise out of proximate incidents, the roles and legal relationships are materially different.

[16] To the extent the complaints are against different organizations, the complainant says each are independently responsible for their respective compliance with PIPA.<sup>11</sup>

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<sup>5</sup> Complainant's initial submission at paras 9-10 and Altrad's submission at para 6.

<sup>6</sup> Altrad's submission, p. 1.

<sup>7</sup> Altrad's submission, p. 2.

<sup>8</sup> Altrad's submission, p. 1.

<sup>9</sup> Altrad's submission, p. 2.

<sup>10</sup> Complainant's reply submission at para 2.

<sup>11</sup> Complainant's reply submission at para 5.

[17] The complainant also says that once proceedings before the OIPC are established by way of separate inquiries, it would require the consent of the individual complainants to consolidate matters. The complainant says a consequence of consolidation is that potentially sensitive evidence from one complainant would be disclosed to another.<sup>12</sup>

[18] For the reasons that follow, I deny Altrad's request for consolidation.

[19] Individuals have the right to complain that *an* organization has collected, used or disclosed their personal information contrary to PIPA.<sup>13</sup> The existence of other complaints by other individuals and against other organizations, even where they arise out of the same circumstances, does not alter the right of individual complainants to file their own complaints.

[20] Every organization subject to PIPA is independently responsible for its own compliance with PIPA. This responsibility exists independently of other organizations and of any agreements parties may make. PIPA balances the need of an organization to collect, use, and disclose personal information against the right of an individual to protect their personal information.<sup>14</sup>

[21] The complainant filed this complaint against Altrad. The complainant also filed a complaint against JFJV for alleged PIPA violations arising out of the same factual circumstances. These two organizations have different relationships to the complainant and different needs to balance against the complainant's right to protect his personal information. For instance, Altrad was the complainant's employer, JFJV was not. An employment relationship changes the PIPA consent requirements for the collection, use, and disclosure of personal information, if that information is found to be "employee personal information".

[22] I understand Altrad to be saying that this complaint should be consolidated with the other complaints because it is, in effect, part of a larger effort by the Union to launch a collateral attack against the Project policies. However, regardless of what might be going on in the background of this complaint, the complainant has the right to complain about his employer's actions. Altrad cannot avoid its obligations under PIPA based on what it alleges are the motives of the Union that has been assisting the complainant with his complaint.

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<sup>12</sup> Complainant's reply submission at para 3.

<sup>13</sup> Sections 36(2)(e), 45, and 46.

<sup>14</sup> Section 2.

*Request for an oral hearing*<sup>15</sup>

[23] Separate from its request to consolidate inquiries, Altrad requests an oral hearing to which other interested parties should be invited to participate. For the reasons that follow, I decline to grant Altrad's request for an oral hearing. I address the issue of other interested parties in the appropriate persons section below.

[24] Section 50(4)(a) gives the Commissioner the power to decide whether representations are to be made orally or in writing. Altrad says a full oral hearing is required, including expert evidence to address the efficacy of the various types of drug and alcohol testing on the Project.<sup>16</sup>

[25] OIPC inquiries typically proceed by way of written submissions. The notice of inquiry clearly states that submissions are to be made in writing. Through this standard written submission process, Altrad had the opportunity to respond to the complainant's submission and provide evidence on its application of PIPA. Altrad provided a written submission but chose to not adduce any affidavit evidence.

[26] Altrad says it is limited in its ability to produce relevant evidence concerning the safety sensitive nature of the worksite and the underlying reasons why the policies and procedures governing the Project worksite were adopted. Altrad says that JFJV, and others, likely have such evidence.<sup>17</sup>

[27] Altrad does not sufficiently explain, and I cannot see, why its ability to adduce evidence would be any different if there were an in person, rather than a written hearing. In my view, securing affidavits for a written inquiry would be less onerous than scheduling and preparing witnesses for an oral hearing. I have nothing before me to suggest that Altrad made efforts to secure such affidavits for its use in this inquiry.

[28] The main advantage of an oral hearing, in my view, is a party's ability to challenge evidence, in real time, through cross examination. This ability is particularly important where the credibility of a witness is a key factor in the outcome. The issues in this inquiry are not, in my view, ones where credibility is an issue. Altrad does not, for example, challenge the complainant's sworn evidence.

[29] As for challenging the evidence of experts that might be called in an oral hearing, I see no need for that type of evidence. This inquiry is not about the

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<sup>15</sup> Altrad refers to a "full hearing" by which I understand it to mean an oral hearing. My understanding comes from Altrad's comment on p. 2 of its submission that the complaints "should be joined and an oral hearing convened to address all four Inquiries."

<sup>16</sup> Altrad's submission, p. 2.

<sup>17</sup> Altrad's submission, p. 2.

efficacy of the various types of drug and alcohol testing. Instead, the issues are largely about statutory interpretation and application.

[30] I am not persuaded that Altrad offers a sufficient reason to delay this matter for the purpose of convening an in-person hearing. I decline to grant Altrad's request for an oral hearing.

*Appropriate persons*

[31] Altrad says all contractors and the site owner should be allowed to speak to the safety sensitive issues at the Project.<sup>18</sup> Altrad does not further identify those contractors. Altrad says that LNG Canada Development Inc. (LNG) is the site owner.<sup>19</sup> I consider Altrad to mean that these other contractors and LNG are "appropriate persons" under s. 48(1)(b).

[32] Section 48(1)(b) provides that any person the commissioner considers appropriate is entitled to receive a copy of the request for review. Section 50(3) provides that any person given a copy of the request for review must be given an opportunity to make representations during the inquiry.

[33] The BC Court of Appeal has considered the invitation of "appropriate persons" in the context of the comparable provision for inquiries found in s. 54(b) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).<sup>20</sup> Section 54(b) of FIPPA has the same wording as s. 48(1)(b).

[34] In considering who should receive a request for review and be invited to formally participate in an inquiry, the Court of Appeal clarifies that s. 54(b) of FIPPA provides the OIPC with a "fair measure of discretion". The exercise of that discretion requires determining who might reasonably be affected by the outcome of the inquiry and have a sufficient interest in the inquiry proceedings to become a participant in the process.<sup>21</sup> I apply this same reasoning here to s. 48(1)(b).

[35] Altrad does not identify the contractors, other than to say all contractors. Further, Altrad does not sufficiently explain how these other contractors or LNG might reasonably be affected by the outcome of this inquiry. The complaint here is against Altrad.

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<sup>18</sup> Altrad's submission, p. 2.

<sup>19</sup> Altrad's submission at para 1.

<sup>20</sup> RSBC 1996, c 165.

<sup>21</sup> *The Office of the Information and Privacy Commissioner for British Columbia v. Airbnb Ireland UC*, 2024 BCCA 333 at para 51; *Guide Outfitters Assoc. v. British Columbia (Information and Privacy Commissioner)*, 2004 BCCA 210 (CanLII) at paras 29 and 33.

[36] I understand Altrad's position, as with the oral hearing request, is that others might have relevant evidence that will assist Altrad. I am not persuaded that the ability of others to provide evidence, on its own, is sufficient reason to invite all other contractors and LNG to participate in this inquiry.

[37] While I can see that these other contractors and LNG might have information about Project safety issues, Altrad should be aware of, and have evidence about, safety issues that affect its employees. Altrad provides no such evidence. The burden is on Altrad to secure such evidence to prove its compliance with PIPA.

[38] For the above reasons, I am not persuaded that all of the other contractors and LNG are appropriate persons for the purposes of this inquiry.

#### *Request for an extension*

[39] Altrad says that it "notes" the OIPC's failure to grant its requested extension in this matter. Altrad says the OIPC granted JFJV's requested extension in the inquiry involving the complainant and JFJV.<sup>22</sup> I understand Altrad to be referring to the decision of the OIPC's Registrar of Inquiries declining Altrad's request for more time to provide its inquiry submissions.

[40] In my view, the simple fact that there was an extension of a deadline in a separate proceeding is not the basis for extending the submission deadlines in this inquiry.

[41] It is not clear to me what Altrad's intention is for "noting" that it was not granted an extension in this inquiry as it does not explain. Based on the submissions it provided me, I can see no reason to question the OIPC's Registrar of Inquiries' decision to decline its request for an extension of the submission deadlines.

#### *The 2021 OIPC letter*

[42] The complainant's complaint and inquiry submissions quote at length from a 2021 OIPC letter.<sup>23</sup> In this letter, former Commissioner McEvoy provided commentary, under s. 36(f) of PIPA, about the protection of personal information in the context of canine searches. The complainant references this letter as support for certain arguments he makes about reasonableness and legitimate expectations.

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<sup>22</sup> Altrad's submission, p. 1.

<sup>23</sup> Complainant's initial submission at paras 14-16. The complainant says this letter resulted from the agreement of JFJV, a union, and two companies (not including Altrad) to submit certain questions about the Project to the OIPC. The complainant says that one of the questions was about whether a random drug dog search policy for the Project complies with PIPA.

[43] In my view, what the complainant says about the letter is not relevant to this inquiry. Neither party suggests, and I cannot see, that Altrad was involved in the process that led to the letter. I am also aware that the letter is not binding on me and it was issued based on the material and circumstances at hand at the time and did not make any findings of fact or law. For these reasons, I will not consider the letter any further.

## **ISSUES AND BURDEN OF PROOF**

[44] The issues I must decide in this inquiry are:

1. Did Altrad collect the complainant's personal information? If so, did the collection comply with ss. 6 and 11 of PIPA?
2. Did Altrad use the complainant's personal information? If so, did the use comply with ss. 6 and 14 of PIPA?
3. Did Altrad disclose the complainant's personal information? If so, did the disclosure comply with s. 6 and 17 of PIPA?
4. Has Altrad complied with its obligations under s. 5(a) to develop and follow policies and practices that are necessary for Altrad to meet its obligations under PIPA?

[45] PIPA does not say who has the burden of proof for an inquiry into the issues identified above. Previous OIPC decisions have found, however, that it will be in each party's interest to provide information and evidence to support and justify their position.<sup>24</sup> I agree with, and adopt, this same approach.

## **DISCUSSION**

### **Facts**

[46] Before turning to the issues set out above, I set out here my findings about what happened. The complainant, who was there, provided his sworn evidence about the events that happened.<sup>25</sup> Altrad does not challenge this evidence. In my view, there is no real dispute about the factual events that happened.

[47] I accept the complainant's version of events. I accept it because his evidence is sworn, he was present for the events, and his evidence is not challenged by other sworn evidence.

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<sup>24</sup> Order P21-06, 2021 BCIPC 35 (CanLII) at para 17 and Order P09-02, 2009 CanLII 67292 (BC IPC) at para 4.

<sup>25</sup> Complainant's statutory declaration sworn January 17, 2024.

[48] From the complainant's sworn evidence and from the submissions of the parties, I find what happened is as follows:

- The complainant was an Altrad employee who worked as a painter on the Project.
- At no time, prior to the events described below, was the complainant ever subjected to a search (canine or otherwise) at the Project site.
- On June 14, 2023, the complainant and other Altrad employees were sent to work at a location off the Project site in an Altrad vehicle. There was no work for them to do at the offsite location.
- After about an hour at the offsite location, an Altrad representative ordered them to return to the Project site with haste.
- The Altrad vehicle was pulled over by JFJV security guards<sup>26</sup> at the Project site's main gate. The guards contacted Altrad management for authorization to search the vehicle. Altrad gave that authorization.<sup>27</sup>
- The complainant was not asked for and did not give his consent to the search. The complainant was in the vehicle that got stopped and searched by sniffer dogs.
- The sniffer dogs searched the vehicle and its contents, which included the personal items of the vehicle's occupants. The dogs alerted (meaning detected something) on the vehicle and on personal items in the vehicle. The JFJV guards communicated the results of the search to Altrad.
- As a result of the search, Altrad demanded that the complainant undergo drug and alcohol testing. The complainant told Altrad he would not submit to testing. Altrad terminated the complainant's employment for his refusal to test.
- Someone communicated the complainant's refusal to JFJV who then suspended the complainant's Project site access.

### **PIPA complaint**

[49] The complainant alleges Altrad collected, used, and disclosed his personal information contrary to PIPA. The complainant further alleges Altrad failed to comply with s. 5(a).

[50] The complainant alleges Altrad collected, used, and disclosed his personal information contrary to PIPA in the following ways:

- Jointly, with JFJV, collecting his personal information without his consent, through a random, unannounced drug dog search in the

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<sup>26</sup> Altrad's submission at para 22.

<sup>27</sup> Altrad submission at para 23.

absence of any reasonable suspicion of impairment or evidence of a significant workplace safety issue.<sup>28</sup>

- Using that personal information, without his consent, through its demand he submit to drug and alcohol testing.<sup>29</sup>
- Collecting his personal information, without his consent, from his response to its demand for testing.<sup>30</sup>
- Using his personal information, without his consent, by terminating his employment for his refusal to test.<sup>31</sup>
- Disclosing his personal information, without his consent, to JFJV resulting in him being banned from the Project site.<sup>32</sup>

### Does PIPA apply to Altrad?

[51] Section 3(1) states that PIPA applies to every “organization”. PIPA defines an organization to include “a person, an unincorporated association, a trade union, a trust or a not for profit organization.” Under the *Interpretation Act*, a “person” includes a corporation.<sup>33</sup>

[52] The parties do not dispute that Altrad qualifies as an organization and is subject to PIPA. I find it is an organization and is subject to PIPA.

[53] Pursuant to PIPA, organizations must have the requisite authority to collect, use, and disclose personal information. Further, organizations must develop and follow policies and practices that are necessary for the organization to meet its PIPA obligations.<sup>34</sup>

### Information at issue

[54] In my view, the parties agree on what information is at issue.<sup>35</sup> This information is the indication by a drug dog in a vehicle search<sup>36</sup> and the complainant’s refusal to submit to a drug test.

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<sup>28</sup> Complainant’s initial submission, p. 2 and at para 20.

<sup>29</sup> Complainant’s initial submission at para 21.

<sup>30</sup> Complainant’s initial submission, p. 2 and at para 21.

<sup>31</sup> Complainant’s initial submission, p. 2 and at para 26.

<sup>32</sup> Complainant’s initial submission, p. 2 and at para 26.

<sup>33</sup> RSBC 1996, c 238 at s. 29.

<sup>34</sup> Section 5(a).

<sup>35</sup> The complainant, at p. 2 of his initial submission, describes it as stemming from the unilateral deployment of a random, unannounced, canine-assisted search and subsequent demand for drug and alcohol testing. Altrad, at paras 33-35 of its submission, describes it as employee information that includes JFJV informing Altrad that its vehicle and contents had been indicated for drugs by a canine trained in drug detection and the complainant’s refusal to submit to drug and alcohol testing.

<sup>36</sup> The indication was on the Altrad vehicle and its contents. The complainant was one of the passengers in that vehicle.

**Did Altrad collect, use, and or disclose the information at issue?**

[55] Before deciding whether the information at issue is personal information and assessing whether specific provisions of PIPA authorized its collection, use, and or disclosure, I set out here my key findings of fact in relation to the collection, use, and disclosure of the information at issue.

[56] The complainant says Altrad and JFJV are collectively responsible for what happened in relation to the information at issue.<sup>37</sup> Altrad says it was not involved in the collection of the search Information but instead received that information from JFJV.<sup>38</sup> Altrad therefore collected the information from another organization.<sup>39</sup>

[57] I find that Altrad collected the search information from JFJV and used it to demand the complainant submit to testing. I further find that Altrad collected the complainant's refusal to submit to a test directly from him and used it to terminate his employment.<sup>40</sup>

[58] The complainant takes a very general position on disclosure. The complainant says to the extent that Altrad disclosed anything to JFJV, such disclosure is regulated by PIPA.<sup>41</sup> The complainant offers sworn evidence that he believes JFJV banned him from the Project site as a result of the events of June 14, 2023.<sup>42</sup> He does not say how JFJV found out about his refusal to be tested.

[59] Altrad says it did not disclose the complainant's refusal to be tested directly to JFJV; rather JFJV learned about it from its direct interactions with the complainant.<sup>43</sup> Altrad offers no evidence in support of this claim.

[60] While I am satisfied that the complainant's refusal to be tested was disclosed to JFJV, I find that I have insufficient evidence to conclude it was Altrad, and not the complainant, who disclosed that information. For that reason, I am not persuaded Altrad disclosed the complainant's personal information, and I will not consider disclosure any further.

[61] In summary, I find that Altrad collected and used, but did not disclose, the information at issue. I turn now to whether this information is personal information and if so, whether PIPA authorizes its collection and use.

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<sup>37</sup> Complainant's initial submission, p. 2.

<sup>38</sup> Altrad's submission at para 37.

<sup>39</sup> The collection of personal information by one organization from another organization, rather than directly from an individual is also subject to PIPA. See s. 10(2).

<sup>40</sup> Altrad's submission at para 35.

<sup>41</sup> Complainant's initial submission at para 92.

<sup>42</sup> Complainant's statutory declaration at para 29.

<sup>43</sup> Altrad's submission at para 36.

### *Personal information*

[62] For PIPA to apply, the information at issue must fall within the definition of personal information. Section 1 provides the following definitions explaining what personal information means:

"personal information" means information about an identifiable individual and includes employee personal information but does not include

- (a) contact information, or
- (b) work product information;

"employee personal information" means personal information about an individual that is collected, used or disclosed solely for the purposes reasonably required to establish, manage or terminate an employment relationship between the organization and that individual, but does not include personal information that is not about an individual's employment;

"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.

[63] Previous orders establish a two-step test in assessing whether information is personal information under PIPA.<sup>44</sup> The first step is whether the information is about an identifiable individual. The second step is whether the information is excluded from the definition of "personal information" because it is "contact information" or "work product information."<sup>45</sup> I adopt this same approach to personal information and apply it here.

### *Parties' submissions – personal information*

[64] The complainant says that the information at issue is personal information. The complainant further says it is not "employee personal information" because its collection and use does not meet the applicable standards of

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<sup>44</sup> See for example, Order P21-06, 2021 BCIPC 35 (CanLII) and Order P13-01, 2013 BCIPC 23 (CanLII).

<sup>45</sup> Order P13-01, 2013 BCIPC 23 (CanLII) at para 16.

reasonableness.<sup>46</sup> Altrad says the information at issue is employee personal information.<sup>47</sup>

*Analysis – personal information*

[65] Clearly the information at issue is about an identifiable individual, the complainant. Neither party argues, and I cannot see, that it is contact or work product information. I find that it is personal information. The issue here, because Altrad was the complainant’s employer, is whether it is “employee personal information”.

[66] The definition of employee personal information highlights several required elements. First the collection, use or disclosure of information must be for “purposes reasonably required” to establish, manage or terminate an employment relationship. Second, the collection, use or disclosure must be “solely” for those purposes.<sup>48</sup>

Is the collection and use of the information at issue for purposes reasonably required to manage or terminate the employment relationship?

[67] The analysis of “purposes reasonably required” means looking at the purpose cited by an employer through an objective lens. I find the words of former Commissioner Loukidelis particularly helpful in this analysis:

This is not to say that an employer has free rein to assert that a purpose it cites for collecting, using or disclosing personal information is “reasonably” required to establish, manage or terminate an employment relationship. Section 4(1) provides that, in meeting its responsibilities under PIPA, an organization “must consider what a reasonable person would consider appropriate in the circumstances”. More directly, PIPA’s definition of employee personal information, by using the words “reasonably required”, itself limits the purposes for which an employer may collect, use or disclose personal information in the employment relationship context.<sup>49</sup>

[68] Altrad says its purpose for collecting and using the information at issue was “primarily ensuring the health and safety of its employees and others at the [Project] site.”<sup>50</sup>

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<sup>46</sup> Complainant’s initial submission at para 39.

<sup>47</sup> Altrad’s submission at para 33.

<sup>48</sup> Order P12-01, 2012 BCIPC 25 (CanLII) at para 116.

<sup>49</sup> Order P06-04, 2006 CanLII 37938 (BC IPC) at para 46.

<sup>50</sup> Altrad’s submission at para 43.

[69] I accept that Altrad's purpose for the collection and use of the complainant's personal information was for the health and safety of its employees. When viewed through an objective lens, I find this is a purpose that is reasonably required to manage its employment relationship with the complainant.

Is the collection and use of the information at issue "solely" for the purposes of managing or terminating the employment relationship?

[70] The definition of "employee personal information" includes the word "solely". It also says that information that is not about an individual's employment is not included in the definition. This definition clarifies then that the collection, use or disclosure of the information about an individual must only be for purposes required to establish, manage or terminate the organization's employment relationship with the individual. In other words, an employer cannot have other, what I would call non-employment purposes, for collecting, using or disclosing personal information and still claim the personal information is "employee personal information".<sup>51</sup>

[71] Altrad's choice of "primarily" in describing its purpose for the collection and use of the information at issue raises the possibility that it also had other purposes. Further, the complainant argues the information is not about "current impairment" and not about the complainant's employment. The complainant says it is therefore explicitly excluded by the definition of "employee personal information".<sup>52</sup> For these reasons, I considered whether those other purposes might take the information at issue out of the definition of employee personal information.

[72] Altrad outlines, in detail, the rules about drug and alcohol testing at the Project. Altrad says JFJV imposed these rules on Altrad.<sup>53</sup> From this, I conclude that another purpose for Altrad's collection and use of the information at issue was to manage its relationship with JFJV.

[73] In my view, Altrad's management of its relationship with JFJV is part of managing its employment relationship with the complainant. The management of that relationship is therefore reasonably required for Altrad to obtain, establish, and manage employment for the complainant at the Project.<sup>54</sup>

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<sup>51</sup> Order P06-04, 2006 CanLII 37938 (BC IPC) at para 48.

<sup>52</sup> Complainant's initial submission at para 40.

<sup>53</sup> Altrad's submission at paras 10-13.

<sup>54</sup> I can see at clause 13 of Exhibit "E" to Altrad's submission that remaining eligible for site access is a job requirement. For this additional reason, ensuring the complainant meets JFJV's rules for Project site access is part of Altrad keeping him employed, thereby managing his employment.

[74] I am satisfied Altrad collected and used the information about the complainant solely for purposes reasonably required to manage its employment relationship with him.

*Conclusion – personal information*

[75] I find that the information at issue is employee personal information. I turn next to whether PIPA authorizes the collection and use of that personal information.

**Overview of collection and use analysis**

[76] PIPA imposes a consent-based regime for the collection and use of all personal information, including employee personal information. Section 6 is the provision that provides the starting point for the analysis. If I find Altrad complied with s. 6, I will turn to whether or not PIPA places any limits on the collection and use of the information at issue.

**Consent – s. 6**

[77] Section 6 provides:

6 (1) An organization must not

- (a) collect personal information about an individual,
- (b) use personal information about an individual, or
- (c) disclose personal information about an individual.

(2) Subsection (1) does not apply if

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

*Parties' submissions – consent*

[78] The complainant says he did not consent to the collection and use of his personal information.<sup>55</sup> He also says the exceptions for consent do not apply.<sup>56</sup> Finally, he says consent in these circumstances cannot be deemed or implied where the only other option is to decline or abandon employment.<sup>57</sup>

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<sup>55</sup> Complainant's submission at para 44.

<sup>56</sup> Complainant's initial submission at paras 41-43 and reply submission at para 17.

<sup>57</sup> Complainant's initial submission at paras 44-48.

[79] To support his position, the complainant provides his sworn evidence that:

- at no time during his employment with Altrad or his work on the Project was he ever subjected to a search (canine or otherwise) prior to the search of June 14, 2023.<sup>58</sup>
- he was not asked for, nor did he give, his consent to the search of the vehicle;<sup>59</sup>
- he felt he would lose his job if he declined to comply with the search and testing demand;<sup>60</sup>
- he did not consent to the collection or use of any of his personal information.<sup>61</sup>

[80] Altrad says that by virtue of his employment, the complainant both had notice of,<sup>62</sup> and “expressly authorized”,<sup>63</sup> the collection and use of his employee personal information by Altrad. Altrad further says that s. 12(1)(c) applies to authorize the collection of personal information without consent.<sup>64</sup>

[81] Attached to its submission, Altrad provides a copy of its Drug and Alcohol Policy (Policy)<sup>65</sup> and a nine-page unsigned Conditional Offer of Employment addressed to the complainant (Offer).<sup>66</sup>

#### *Analysis – consent*

[82] Section 6 provides that an organization may only collect and use personal information about an individual in the following circumstances:

- Under s. 6(2)(a), where the individual gives consent. This consent is often referred to as “express” or “explicit” consent.
- Under s. 6(2)(b), where PIPA authorizes the organization to do so without consent.
- Under s. 6(2)(c), where PIPA deems the individual to have consented. This consent is often referred to as “deemed”, “implicit” or “implied” consent.<sup>67</sup>

[83] For the reasons that follow, I am not persuaded that the complainant consented to the collection or use of any of his personal information.

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<sup>58</sup> Complainant’s statutory declaration at para 9.

<sup>59</sup> Complainant’s statutory declaration at para 22.

<sup>60</sup> Complainant’s statutory declaration at para 26.

<sup>61</sup> Complainant’s statutory declaration at para 30.

<sup>62</sup> Altrad’s submission at para 39.

<sup>63</sup> Altrad’s submission at para 40.

<sup>64</sup> Altrad’s submission at para 41.

<sup>65</sup> Altrad’s submission, Exhibit “B”.

<sup>66</sup> Altrad’s submission, Exhibit “E”.

<sup>67</sup> Order P23-08, 2023 BCIPC 76 (CanLII) at para 60.

Collection and use of personal information with consent - s. 6(2)(a)

[84] Section 6(2)(a) applies where an individual gives explicit consent to the collection and use of their personal information. Explicit consent requires definitive and unambiguous corroborating proof, such as a signed statement or verbal affirmation.<sup>68</sup>

[85] Altrad says the complainant expressly authorized the collection and use of his personal information. Altrad does not say, and I cannot see, where the complainant provided this express authorization.

[86] I considered the submissions of the parties about Altrad's consent to the search of its vehicle. I do not understand Altrad to be arguing, as the complainant suggests,<sup>69</sup> that Altrad consented on behalf of the complainant. Instead, I understand Altrad to have given JFJV authorization to search Altrad's vehicle.

[87] The complainant provides sworn evidence that he did not consent to the search of the vehicle. This evidence is uncontradicted. I find the complainant did not expressly consent to the collection or use of the information about him that resulted from the search.

[88] As for the information about the complainant refusing to take a test, I understand Altrad's position to be that the complainant gave his explicit consent to the collection and use of that personal information by virtue of his employment.

[89] To determine whether s. 6(2)(a) applies (explicit consent), it is also necessary to consider ss. 7(1), and 10. The relevant provisions read as follows:

7 (1) An individual has not given consent under this Act to an organization unless

- (a) the organization has provided the individual with the information required under section 10 (1), and
- (b) the individual's consent is provided in accordance with this Act.

10 (1) On or before collecting personal information about an individual from the individual, an organization must disclose to the individual verbally or in writing

- (a) the purposes for the collection of the information, and
- (b) on request by the individual, the position name or title and the contact information for an officer or employee of the organization who is able to answer the individual's questions about the collection.

...

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<sup>68</sup> Order P22-08, 2022 BCIPC 74 (CanLII) at para 13.

<sup>69</sup> Complainant's reply submission at paras 9-10.

- (3) This section does not apply to a collection described in section 8 (1) or (2).

[90] Altrad collected the complainant's refusal to take a test directly from him. For the collection of information, s.7(1) stipulates a two-part test for express consent under s. 6(2)(a). The first part of the test requires an organization to provide an individual with notification under s. 10(1) of the purpose of collection and use of personal information before any consent they may provide would qualify as valid. The second part of the test requires that the individual subsequently provides their consent in accordance with PIPA.<sup>70</sup>

[91] For the first part of the test under s. 7(1)(a), Altrad does not specifically say where or when it provided the complainant with the required notification of its purposes for the collection of the specific information at issue here. However, from the documents Altrad submitted, I conclude that it means notification is found in the Offer setting out the terms of the complainant's employment.

[92] The Offer is addressed to, but not signed by, the complainant. For this reason, I am not persuaded that this Offer amounts to definitive and unambiguous corroborating proof.

[93] There is a statement at the end of the Offer that reads:

I acknowledge that I have read, understood and accept the terms and conditions of employment set out in this Contract of Employment and the obligations set out in the annexed documents. I accept employment with the Company on the basis of these conditions.<sup>71</sup>

[94] After this statement there is a space for the complainant's signature. Altrad does not say, and I cannot see, why there is no signature on that form. The fact that it is unsigned, in itself means the consent is not "express" as contemplated by s. 6(2)(a).

[95] The Offer is nine pages long and includes two clauses relevant to the issue of notification and consent. The first is that the employee consents to the collection and use of personal information for purposes reasonably required to establish, manage or terminate the employment relationship.<sup>72</sup> The other is the employee's consent to be bound to Altrad's policies.<sup>73</sup> The Policy at issue here is 17-pages long and it contemplates the need for testing where an employee is "unfit for duty" due to alcohol or drug impairment.<sup>74</sup>

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<sup>70</sup> Order P22-08, 2022 BCIPC 74 (CanLII) at para 15.

<sup>71</sup> Altrad's submission, Exhibit "E".

<sup>72</sup> Conditional Offer of Employment at para 12.

<sup>73</sup> Conditional Offer of Employment at para 11.

<sup>74</sup> The Policy defines fitness for duty as "the ability to safely and acceptably perform assigned duties without any limitations due to the use or after-effects of alcohol or drugs". The Policy

[96] Altrad does not say, and I cannot see, that the Offer or the Policy provide notice that an Altrad employee might be subject to any kind of search at the workplace, let alone a drug dog search, or that such a search might lead to a demand for testing.

[97] Altrad has not persuaded me that the complainant was even aware of the terms of the Offer and Policy. Altrad attached these documents to its submission but did not specifically argue that the notification required by s. 7(1)(a) is found in these documents. I drew that conclusion from Altrad's general submission that the complainant received notice by virtue of his employment. For this reason, I draw no adverse inference from the lack of response on the issue of notification in the complainant's reply submission.<sup>75</sup>

[98] For the sake of completeness, I did consider whether, if the complainant had read them, these documents provided notification for the collection and use of the complainant's personal information in these circumstances. In my view, together they only provide notification that an employee might be subject to a testing demand where they fail to report and remain "fit for duty".<sup>76</sup>

[99] The evidence before me about the complainant's fitness for duty at the relevant time is in the complainant's sworn evidence that:

At no time during my employment with Altrad or my work on the Project was I ever in contact with, under the possession of or under the influence of alcohol, marijuana or any other recreational or pharmaceutical drug. I have been falsely accused of using or handling marijuana and I have suffered an impact on my livelihood as a consequence of those false accusations.<sup>77</sup>

[100] Altrad's own evidence on the complainant's fitness for duty at the relevant time supports this sworn evidence. Altrad provided a copy of the testing demand form for the complainant. The form is dated the same day as the drug dog search. There is yes or no question box on the form that asks, "Is impairment current and while at the Company workplace"? The answer box ticked off is "No".<sup>78</sup>

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requires Altrad employees to report and remain (while working) fit for duty. Altrad's submission, Exhibit "B" at paras 8.13 and 12.1(a).

<sup>75</sup> I considered whether the fact that the complainant did not specifically deny reading these documents should impact this analysis. The complainant's statutory declaration was sworn before those documents were provided to him by Altrad in this inquiry. Altrad does not say those documents provided notice to the complainant. For these reasons, I am not persuaded of a need for further evidence about whether he, in fact, read those documents, particularly in light of the next paragraph.

<sup>76</sup> Altrad's submission, Exhibit "B" at paras 8.13 and 12.1(a).

<sup>77</sup> Complainant's statutory declaration at para 33.

<sup>78</sup> Altrad's submission, Exhibit "F".

[101] Altrad does not say, and I cannot see, where it provided notice to the complainant of its purpose for collecting and using his personal information in this way. From the documents it did provide, I find Altrad did not provide the complainant with the notification of purpose as required by s. 10(1)(a) before collecting his refusal to take a test. The absence of the notification required by s. 10(1) renders any express consent invalid. For that reason, it is unnecessary for me to consider s. 7(1)(b).

Collection and use of personal Information authorized without consent - s. 6(2)(b)

[102] Section 6(2)(b) allows for the collection and use of personal information without consent where authorized by PIPA. The information at issue is employee personal information. Sections 13 and 16 are the provisions that set out when the collection and use of employee personal information is authorized.

[103] Sections 13 and 16 provide as follows:

13(1) Subject to subsection (2), an organization may collect employee personal information without the consent of the individual.

(2) An organization may not collect employee personal information without the consent of the individual unless

(a) section 12 allows the collection of the employee personal information without consent, or

(b) the collection is reasonable for the purposes of establishing, managing or terminating an employment relationship between the organization and the individual.

(3) An organization must notify an individual that it will be collecting employee personal information about the individual and the purposes for the collection before the organization collects the employee personal information without the consent of the individual.

(4) Subsection (3) does not apply to employee personal information if section 12 allows it to be collected without the consent of the individual.

16(1) Subject to subsection (2), an organization may use employee personal information without the consent of the individual.

(2) An organization may not use employee personal information without the consent of the individual unless

(a) section 15 allows the use of the employee personal information without consent, or

(b) the use is reasonable for the purposes of establishing, managing or terminating an employment relationship between the organization and the individual.

(3) An organization must notify an individual that it will be using employee personal information about the individual and the purposes for the use before the organization uses the employee personal information without the consent of the individual.

(4) Subsection (3) does not apply to employee personal information if section 15 allows it to be used without the consent of the individual.

*Sections 13(2)(a) and 16(2)(a)*

[104] Altrad does not say it relies on s. 13(2)(a) for its collection of the employee personal information but does say it relies on s. 12(1)(c).<sup>79</sup> For that reason, I consider whether s. 13(2)(a) authorizes the collection of the employee personal information without consent pursuant to s. 12(1)(c). I will also consider whether s. 16(2)(a) authorizes the use of employee personal information without consent pursuant to s. 15(1)(c).

[105] The relevant portions of ss. 12 and 15 provide as follows:

12(1) An organization may collect personal information about an individual without consent or from a source other than the individual, if

...

(c) it is reasonable to expect that the collection with the consent of the individual would compromise the availability or the accuracy of the personal information and the collection is reasonable for an investigation or a proceeding,

...

15(1) An organization may use personal information about an individual without the consent of the individual, if

...

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

...

[106] Thus, ss. 12(1)(c) and 15(1)(c) authorize the collection and use of personal information without consent for purposes related to an investigation or proceeding.

<sup>79</sup> Altrad's submission at para 41.

[107] An “investigation” is defined in PIPA as follows:

“investigation” means an investigation related to

- (a) a breach of an agreement,
- (b) a contravention of an enactment of Canada or a province,
- (c) a circumstance or conduct that may result in a remedy or relief being available under an enactment, under the common law or in equity,
- (d) the prevention of fraud, or
- (e) trading in a security as defined in section 1 of the *Securities Act* if the investigation is conducted by or on behalf of an organization recognized by the British Columbia Securities Commission to be appropriate for carrying out investigations of trading in securities,

if it is reasonable to believe that the breach, contravention, circumstance, conduct, fraud or improper trading practice in question may occur or may have occurred;<sup>80</sup>

[108] Altrad does not sufficiently explain, and I cannot see, how ss. 12(1)(c) and 15(1)(c) apply in this case. Altrad does not say what investigation or proceeding it means, let alone how obtaining the complainant’s consent would compromise the availability or accuracy of the information about him.

[109] In its submissions, Altrad merely refers to a JFJV investigation, but it does not further explain and connect it to ss. 12(1)(c) and 15(1)(c).<sup>81</sup> Therefore, I am not persuaded that ss. 12(1)(c) or 15(1)(c) apply to authorize the collection or use of personal information without consent.

[110] I find that 13(2)(a) and 16(2)(a) do not apply because ss. 12(1)(c) and 15(1)(c) do not apply. For that reason, I find ss. 13(2)(a) and 16(2)(a) did not authorize Altrad to collect and use the complainant’s personal information without consent.

[111] I consider next whether ss. 13(2)(b) and 16(2)(b) authorize the collection and use of employee personal information without consent.

#### *Sections 13(2)(b) and 16(2)(b)*

[112] Sections 13(2)(b) and 16(2)(b)<sup>82</sup> allow an organization to collect and use employee personal information without consent if the collection is reasonable for

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<sup>80</sup> Section 1.

<sup>81</sup> Altrad’s submission at para 47.

<sup>82</sup> Altrad’s specifically says it relies on s.16(2)(b) at para 42 of its submission. Presumably because it denies being involved in the collection of information, it does not reference s. 13(2)(b). For completeness, I analyze both collection and use.

the purposes of establishing, managing or terminating an employment relationship.

[113] The definition of employee personal information involves a finding that the personal information that was collected and used is for purposes reasonably required to establish, manage or terminate an employment relationship. That finding is about the purpose of the personal information.

[114] Sections 13(2)(b) and 16(2)(b) require a further determination of whether the activities of collection and use are reasonable for the purposes of establishing, managing or terminating an employment relationship.<sup>83</sup>

[115] In other words, just because I found the information at issue is employee personal information does not mean that the nature or amount of the information or the manner of the collection or use is reasonable within the meaning of ss. 13(2)(b) and 16(2)(b).<sup>84</sup>

[116] In deciding whether the nature, amount or manner of collection or use is reasonable, in the context of ss. 13(2)(b) and 16(2)(b), past orders have considered the following non-exhaustive list of factors:<sup>85</sup>

1. sensitivity of the employee personal information (*i.e.*, health history or a medical condition is sensitive information, but an employee's name or home address is not);
2. amount of personal information (*i.e.*, Is the employer collecting, using or disclosing more information than is necessary to achieve its purpose(s)?);
3. likelihood of effectiveness (*i.e.*, Is there a reasonable likelihood that the collection, use or disclosure of personal information will fulfil the employer's objectives?);
4. manner of collection and use of the personal information (*i.e.*, Was the employee aware that the information was being collected, or was it covertly collected? In what circumstances and how often does the employer access the information?);
5. less privacy-intrusive alternatives (*i.e.*, Has the employer given reasonable consideration to other methods for achieving its objectives? This factor does not necessarily require the employer to implement the least privacy-intrusive alternative, but the employer must consider the

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<sup>83</sup> Order P20-04, 2020 BCIPC 24 at para 39 referencing Order P12-01, 2012 BCIPC 25 at para 141 and Order P13-02, 2013 BCIPC 24 at para 43.

<sup>84</sup> Order P20-04, 2020 BCIPC 24 at para 39.

<sup>85</sup> Order P20-04, 2020 BCIPC 24 at para 40; Order P12-01, 2012 BCIPC 25 at paras 123-166; and Order P13-02, 2013 BCIPC 24 at para 48.

balance between its interest and the right of individuals to protect their personal information); and

6. other relevant factors given the circumstances.

[117] Using these factors, I will now consider whether Altrad's collection and use of the personal information is reasonable for establishing, managing or terminating its employment relationship with the complainant.

[118] Sensitivity: In my view, the employee personal information here is sensitive in nature for the following reasons:

- It is information about personal choices. These choices are about whether or not to use or possess the substances that the dogs are trained to detect; and about whether or not to permit the invasion of bodily integrity in the testing process.
- It carries employment consequences. The complainant lost his job as a result of the collection and use of this information.
- It carries significant risk of social stigma, discrimination, and legal prosecution. The complainant swears that he truly felt like a deviant in these circumstances.<sup>86</sup>
- It is the type of information that most people would not share widely. It is reasonable to conclude that most people would only share this information with their trusted friends, family or medical professionals.

[119] Amount: In my view, Altrad collected and used more information than necessary to achieve its stated health and safety objective. Altrad's Policy clearly addresses the risk to health and safety posed by employees who are unfit for duty. Altrad's own documents indicate impairment was not current at the time the employee personal information was collected and used. In my view, Altrad collected and used more information than was necessary to achieve a health and safety purpose.

[120] Likelihood of effectiveness: I cannot see, and Altrad does not say how the collection and use of the employee personal information fulfill its stated health and safety objective. Altrad offers no evidence that knowing the sniffer dogs "hit" on the vehicle the complainant was in, along with the fact that he refused a demand for testing, were likely to be effective in fulfilling its objective of ensuring the health and safety of its employees. In fact, the opposite is suggested given Altrad's own evidence that the complainant did not appear unfit for duty at the time the information at issue was collected and used.<sup>87</sup>

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<sup>86</sup> Complainant's statutory declaration at para 32.

<sup>87</sup> Altrad's submission, Exhibit "F".

[121] Manner of collection and use: In my view, a search at ones' place of employment, particularly a search using drug dogs, and the resulting demand to submit to testing, are not neutral, objective or harmless measures. In my view, these are extreme measures that impact individual privacy rights. In coming to that conclusion, I considered the following:

- The complainant describes the manner of collection and use as one of “extreme pressure and intimidation by the show of force by the Security Guards and Altrad management representatives.”<sup>88</sup>
- The complainant says “(w)e do not live in a society where private actors get to take on law enforcement functions of state actors – particularly in the absence of Charter scrutiny.”<sup>89</sup>
- The manner of the collection and use of the personal information here is akin to the police searching an individual in the absence of reasonable cause and demanding the individual submit to drug testing. Such action in those circumstances would be subject to Charter scrutiny.

[122] Less privacy-intrusive alternatives: Altrad does not say, and I cannot see, that it considered any other methods of achieving its stated health and safety objective. In my view, the search was not reasonable. I can accept however, that once Altrad found out the sniffer dog alerted on the vehicle, it signaled a need to investigate further the fitness for duty of its employees in the vehicle. I am not satisfied however, that it was reasonable to conclude testing was necessary. In my view, Altrad should have considered less privacy-intrusive alternatives to a workplace search and demand for testing. Examples include:

- Talking to the complainant face to face to ascertain if there were any physical or behavioural signs of impairment that would affect his health or safety in the workplace, or that of other employees.
- Providing training, education, and supervision of employees on its health and safety objective.

[123] Other relevant factors: In my view, the absence of a detailed procedure for workplace searches in Altrad's Policy is a relevant factor in this analysis. Viewed through an objective lens, its absence is not reasonable because such searches are invasive of personal privacy.

[124] After considering all of the above factors, I am not persuaded that in these circumstances it is reasonable for Altrad to collect and use the complainant's employee personal information without his consent, for the purpose of managing Altrad's employment relationship with him.<sup>90</sup>

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<sup>88</sup> Complainant's statutory declaration at para 26.

<sup>89</sup> Complainant's initial submission at para 49.

<sup>90</sup> For a similar finding, see Order P20-04, 2020 BCIPC 24 at para 71.

[125] I find that ss. 13(2)(b) and 16(2)(b) do not authorize the collection or use of the complainant's employee personal information without consent under s. 6(2)(b).

[126] I found above that ss. 13(2)(a), 13(2)(b), 16(2)(a), and 16(2)(b) do not authorize the collection and use of employee personal information without consent under s. 6(2)(b). For that reason, it is not necessary for me to consider whether Altrad provided the required notification under ss. 13(3) and 16(3) prior to collection and use without consent.

Collection and use of personal Information with deemed consent  
– s. 6(2)(c)

[127] In the absence of obtaining the consent of an individual, an organization may collect personal information if the individual is deemed to have consented.

[128] To determine whether s. 6(2)(c) applies, it is necessary to consider s. 8. The relevant parts of that provision read as follows:

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.

...

(3) An organization may collect, use or disclose personal information about an individual for specified purposes if

- (a) the organization provides the individual with a notice, in a form the individual can reasonably be considered to understand, that it intends to collect, use or disclose the individual's personal information for those purposes,
- (b) the organization gives the individual a reasonable opportunity to decline within a reasonable time to have his or her personal information collected, used or disclosed for those purposes,
- (c) the individual does not decline, within the time allowed under paragraph (b), the proposed collection, use or disclosure, and
- (d) the collection, use or disclosure of personal information is reasonable having regard to the sensitivity of the personal information in the circumstances.

(4) Subsection (1) does not authorize an organization to collect, use or disclose personal information for a different purpose than the purpose to which that subsection applies.

[129] Altrad does not say, and I cannot see, how the complainant could be deemed to have consented to collection or use of his personal information. The complainant says there is no basis to deem consent under s.8.<sup>91</sup>

[130] I am not persuaded that voluntary consent can be implied in these circumstances in which, as the complainant describes in his sworn evidence, he was acting under compulsion, threat, and intimidation.<sup>92</sup> I find requirements of s. 8(1)(b) are not met for deemed consent.

[131] For the notice under s. 8(3)(a), Altrad does not say, and I cannot see that it gave the complainant notice of its intent to collect and use the personal information at issue in a form he could reasonably be considered to understand. I discussed above the inadequacy of the notice provided in its Policy and Offer and will not re-visit it here. I find the requirements of s. 8(3)(a) are not met for deemed consent.

[132] Altrad also does not say, and I cannot see, that it gave the complainant a reasonable opportunity to decline the collection and use of his personal information as required by s. 8(3)(b).

[133] The complainant provides his sworn evidence that he had no opportunity to seek union representation or get advice on what to do or say in response to the vehicle search or the demand he submit to testing.<sup>93</sup> I find the requirements of s. 8(3)(b) are not met for deemed consent.

[134] Therefore, I find that the requirements for deemed consent under s. 8 are not met and therefore s. 6(2)(c) does not authorize Altrad to collect and use the complainant's personal information at issue in this case.

#### *Conclusion- s. 6*

[135] I find that s. 6 does not authorize Altrad to collect or use the personal information of the complainant.

#### **Sections 11 and 14**

[136] Sections 11 and 14 place further limitations on the collection and use of personal information. They say that an organization may collect and use personal information only for purposes that a reasonable person would consider appropriate in the circumstances *and* that either fulfill the purposes that the organization discloses under section 10 (1) or are otherwise permitted under PIPA.

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<sup>91</sup> Complainant's initial submission at para 45.

<sup>92</sup> Complainant's statutory declaration at paras 25-26.

<sup>93</sup> Complainant's statutory declaration at para 27.

[137] I have already found that Altrad did not comply with s. 10(1) and its collection and use of the complainant's personal information was not permitted by PIPA. For that reason, I conclude it has not fulfilled the requirements of ss. 11 and 14.

### **Policies and Practices, s. 5**

[138] Both the Fact Report and the Notice of Inquiry list s. 5(a) as an issue in this inquiry. Section 5(a) says:

5 An organization must

(a) develop and follow policies and practices that are necessary for the organization to meet the obligations of the organization under this Act,

[139] Altrad says it has complied with its obligations under section 5(a) of PIPA.<sup>94</sup> The complainant makes no submission about Altrad's privacy policy.<sup>95</sup> I am satisfied that a policy exists because Altrad provided a copy of the policy in this inquiry. For this reason, I find that Altrad has complied with s. 5.

### **Remedy**

[140] The complainant seeks a declaration that Altrad collected, used, and disclosed his personal information without consent in violation of s. 6 and unreasonably in violation of ss. 11, 14, and 17.<sup>96</sup> The complainant further seeks a cease and desist order and a referral to the British Columbia Supreme Court on the question of damages.<sup>97</sup> Altrad does not comment specifically on remedy.

[141] On completing an inquiry under s. 50, as the commissioner's delegate, I must dispose of the issues by making an order under s. 52. Section 52 gives me the authority to do as follows:

- Either confirm that a duty has been performed or require it to be performed.<sup>98</sup>
- Require Altrad to stop collecting and using the complainant's personal information.<sup>99</sup>
- Specify terms or conditions.<sup>100</sup>

<sup>94</sup> Altrad's submission at para 48.

<sup>95</sup> Altrad's submission, Exhibit "D".

<sup>96</sup> Complainant's initial submission at para 118.

<sup>97</sup> Complainant's initial submission at para 119.

<sup>98</sup> Section 52(3)(a).

<sup>99</sup> Section 52(3)(e).

<sup>100</sup> Section 53(4).

[142] Section 52 does not give me the authority to make a declaration.

[143] On the request for a referral for damages, I considered s. 57(1) which provides as follows:

57 (1) If the commissioner has made an order under this Act against an organization and the order has become final as a result of there being no further right of appeal, an individual affected by the order has a cause of action against the organization for damages for actual harm that the individual has suffered as a result of the breach by the organization of obligations under this Act.

[144] Given this section, I find it unnecessary to consider whether s. 53(4) allows for a referral to the British Columbia Supreme Court on the question of damages for actual harm.

## **CONCLUSION**

[145] For the reasons given above, I confirm that Altrad was not authorized under s. 6 to collect or use the complainant's personal information.

[146] I decline to make any order requiring Altrad to perform a duty under s. 52(3)(a) or requiring Altrad to stop collecting or using the complainant's personal information under s. 52(3)(e). The collection and use took place several years ago and are not ongoing because the complainant's employment with Altrad was terminated.

April 15, 2026

## **ORIGINAL SIGNED BY**

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Carol Pakkala, Adjudicator

OIPC File No.: P24-97126