



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

Order F26-56

CITY OF BURNABY

Rene Kimmitt
Adjudicator

June 29, 2026

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Summary: An individual (complainant) made a complaint that the City of Burnaby had collected, used, and disclosed her personal information in violation of Part 3 of the *Freedom of Information and Protection of Privacy Act*. The adjudicator found that the City was authorized to collect, use, and disclose the complainant's personal information.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, ss. 26(c), 32(a), 33(d) and 33(h).

INTRODUCTION

[1] An individual (complainant) made a complaint that the City of Burnaby (City) had collected, used, and disclosed her personal information in violation of Part 3 of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] The complainant took her concerns directly to the City but was unsatisfied with its response. She then made a complaint to the Office of the Information and Privacy Commissioner (OIPC). The OIPC's investigation did not resolve the matter, and it proceeded to this inquiry.

PRELIMINARY MATTERS

Matters outside the Commissioner's jurisdiction

[3] The parties make submissions about whether the City's collection, use, and disclosure of the complainant's personal information complied with the City's collective agreement, the Burnaby Municipal Benefits Society's benefits plan (Benefits Plan), or the *BC Human Rights Code*. I do not have jurisdiction to make determinations about these issues and, therefore, I will not do so in this order.

New issue – s. 27 (indirect collection)

[4] The City makes submissions about ss. 27(1)(f) and 27(4) of FIPPA. These issues were not listed in the Notice of Inquiry, which sets out the issues that will be decided at inquiry. I will consider whether to add them to the inquiry.

[5] Section 27(1)(f) says a public body must collect personal information directly from the individual the information is about unless “the information is about an employee [...] and the collection of the information is necessary for the purposes of managing or terminating an employment relationship between a public body and the employee”.

[6] Section 27(4) says a public body must notify an employee that it will be collecting personal information under s. 27(1)(f) unless it is reasonable to expect that the notification would compromise: (a) the availability or the accuracy of the information; or (b) an investigation or proceeding related to the employment of the employee.

[7] I understand the City made submissions about these issues in response to the complainant’s submission that the City collected her personal information from a private company rather than her and did so “without consent or notice”.¹

[8] The complainant submits that I should disregard the City’s submissions on s. 27 because they raise issues that are outside the scope of this inquiry.²

[9] The OIPC complaints process is complainant-led. The complainant did not make a complaint about whether the City complied with ss. 27(1)(f) or 27(4). These issues have not been subject to the OIPC’s investigation process, and the complainant asks me to disregard the City’s submissions on these issues. For these reasons, I decline to add these issues to this inquiry.

ISSUES AND BURDEN OF PROOF

[10] In this inquiry, I must decide whether the City:

1. collected the complainant’s personal information contrary to s. 26;
2. used the complainant’s personal information contrary to s. 32; and
3. disclosed the complainant’s personal information contrary to s. 33.

¹ Complainant’s initial submission at para 21.

² Complainant’s reply submission at paras 485-486, and 499.

[11] Section 57 of FIPPA sets out the burden of proof for some types of inquiries. However, it does not specify which party has the burden of proof in an inquiry addressing an unauthorized collection, use, or disclosure complaint.

[12] In Order F25-23, I determined a public body has the burden of establishing either that the collection did not occur or that the collection was authorized under s. 26.³ I adopt this burden of proof for the purpose of this order.

[13] Further, I find my burden of proof analysis about s. 26 is readily transferrable to ss. 32 and 33. Each of these sections empowers a public body to act (i.e. collect, use, or disclose personal information), but only in prescribed circumstances. It is logical to expect the public body to establish it has complied with FIPPA. It is also generally easier and more efficient for the public body, as the entity with direct knowledge of the circumstances surrounding the alleged unauthorized collection, use, or disclosure, to disprove the allegation.

[14] I recognize that the parties did not have the benefit of my findings about the burden of proof before providing their submissions and I have considered whether this order of events impacts the fairness of this inquiry. Previous OIPC orders that deal with collection, use or disclosure complaints say that it is up to each party to provide evidence and argument to support their position and that the public body is ordinarily best placed to offer evidence of its compliance with FIPPA.⁴ Taken together, these findings provide a clear direction to parties, particularly public bodies, about the importance of providing evidence to support their positions. As a result, I find there is no unfairness in continuing the inquiry and basing my findings on the submissions and evidence I received from the parties without them having the benefit of my findings on the burden of proof.

DISCUSSION

Background

[15] The complainant is a former employee of the City. The City and complainant have had active disputes before the BC Human Rights Tribunal since 2020.

[16] At the time of the alleged collection, use, and disclosure of her personal information, the complainant was receiving long-term disability benefits from the City. These benefits were administered by the Burnaby Municipal Benefits Society and managed by a private company called Acclaim Ability Management Inc. (Acclaim).

³ Order F25-23, 2025 BCIPC 28 (CanLII) at paras 12-33.

⁴ Order F25-01, 2025 BCIPC 1 (CanLII) at para 7.

[17] In 2022, the City retained external legal counsel to investigate allegations that the complainant was misrepresenting her entitlement to disability benefits.⁵

[18] On January 11, 2023, the City's Senior Human Resources Advisor (HR Advisor) informed the complainant that the City was investigating the complainant and that the complainant was required to attend an in-person meeting with the investigator. The HR Advisor provided examples of how the City would adapt the meeting to accommodate the complainant's disability.⁶

[19] On January 13, 2023, the complainant replied to the HR Advisor by saying, among other things, that she was "medically unable to participate in any work related activities". She offered to provide the HR Advisor with Acclaim's most recent letter approving her long-term disability benefits.⁷

[20] On January 17, 2023, the HR Advisor replied saying she was not aware the complainant was medically prohibited from participating in a workplace investigation. The HR Advisor stated the City would "fully accommodate [the complainant's] restrictions during the meeting with the investigator" and asked the complainant if she required further accommodations. The HR Advisor told the complainant that she was still an employee of the City and that failure to attend the meeting would be considered insubordination.⁸

[21] That same day, the complainant replied saying the City was acting in an arbitrary and discriminatory manner by not requiring her to provide a doctor's note to participate in the meeting and asking her to act contrary to medical advice. She repeated that she was medically unable to participate and that it was not fair or reasonable for an investigation to proceed in the circumstances.⁹

[22] On January 18, 2023, the HR Advisor emailed the complainant saying that qualifying for disability benefits, under the City's long-term disability plan, did not mean that she was medically unable to participate in a meeting with the City. The HR Advisor reiterated that the City would accommodate the complainant so she could participate in the meeting. The HR Advisor stated she would follow-up with Acclaim for an update on the complainant's restrictions and limitations. She concluded by saying that if the complainant did not attend the meeting, then the City would move forward with the investigation without the complainant's evidence.¹⁰

⁵ City's submission at para 21.

⁶ Senior Human Resources Advisor affidavit #1 (HR Advisor Affidavit) at Exhibit D, PDF page 76.

⁷ HR Advisor Affidavit at Exhibit D, PDF page 74.

⁸ *Ibid* at PDF pages 72-73.

⁹ *Ibid* at PDF pages 71-72.

¹⁰ *Ibid* at PDF page 70.

[23] That same day, the HR Advisor sent an email to a Senior Ability Management Consultant at Acclaim (Ability Consultant). The HR Advisor explained that the complainant is receiving long-term disability benefits and is of the view that she is medically unable to attend a meeting about a workplace matter. The HR Advisor summarized the City's understanding of the complainant's restrictions and limitations and how to accommodate them in the meeting. The HR Advisor asked the Ability Consultant to confirm the complainant's restrictions and limitations and whether they had changed.¹¹

[24] On January 19, 2023, the Ability Consultant said Acclaim had received the complainant's annual medical update in October 2022 and was not aware of any changes since then. The Ability Consultant listed the complainant's restrictions and limitations and asked if the HR Advisor wanted her to reach out to the complainant to see if there had been any changes.¹²

[25] On January 20, 2023, the HR Advisor asked the Ability Consultant:

- whether the restrictions and limitations were based on a medical report;
- if so, the date the report was prepared and whether the report was prepared by a general practitioner or a specialist;
- if the complainant was undergoing treatment to support her in getting better; and
- if her treatment was being monitored by a specialist.¹³

[26] On January 21, 2023, the Ability Consultant answered the HR Advisor's questions.¹⁴

[27] On February 13, 2023, the HR Advisor sent the complainant a letter summarizing the above correspondence and asking for further information about her restrictions and limitations, prognosis, and treatment plan, because the City did "not have sufficient medical [information] to support [her] reports of being unable to attending a workplace meeting, nor a thorough understanding of [her] current restrictions and limitations."¹⁵

[28] The City's Chief Human Resources Officer (Chief HR Officer) was copied on the last letter to the complainant.

¹¹ HR Advisor Affidavit at Exhibit E, PDF page 81.

¹² *Ibid* at PDF page 80.

¹³ *Ibid* at PDF pages 79-80.

¹⁴ *Ibid* at PDF page 79.

¹⁵ HR Advisor Affidavit at Exhibit F.

[29] That same week, the Chief HR Officer sent the complainant a letter terminating her employment.¹⁶ The Chief HR Officer copied the person who would have supervised the complainant's work, if the complainant had not been on leave. I will refer to this person as the General Manager.

Was the City authorized under s. 26(c) to collect the personal information?

[30] Section 26 of FIPPA states that a public body may only collect personal information under certain circumstances, including if "(c) the information relates directly to and is necessary for a program or activity of the public body".

Did the City collect the complainant's personal information?

[31] FIPPA defines "personal information" as "recorded information about an identifiable individual other than contact information" and "contact information" as "information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual".¹⁷

[32] FIPPA does not define the word "collect". However, previous OIPC orders have found that a public body seeking and receiving personal information is a collection of personal information for the purpose of s. 26(c).¹⁸

[33] The City submits it collected information about the complainant's medical limitations and restrictions and treatment status when Acclaim provided responses to the City's emailed questions.¹⁹

[34] The complainant submits the City collected her profoundly sensitive medical information, including psychological records, from Acclaim.²⁰ In one instance, the complainant says Acclaim's description of her restrictions and limitations was "a high-level claims-administration descriptor".²¹ At another point, she says it was a verbatim quote from her medical report.²²

[35] Based on my review of the correspondence sent between the City and Acclaim, I accept the City's characterization of the personal information it collected from Acclaim. Specifically, I find the City collected:

¹⁶ HR Advisor Affidavit at Exhibit G.

¹⁷ FIPPA, Schedule 1.

¹⁸ Order F25-23, 2025 BCIPC 28 (CanLII) at paras 55-57.

¹⁹ City's submission at para 48.

²⁰ Complainant's initial submission at para 2.

²¹ Complainant's reply submission at para 371.

²² *Ibid* at para 465.

- personal information about the complainant’s restrictions and limitations, specifically
 - the date the complainant’s doctor provided the latest medical report;
 - Acclaim’s high-level description summarizing the complainant’s restrictions and limitations;²³ and
- personal information about the complainant’s treatment plan, specifically
 - the fact that the complainant was undergoing active treatment, which was monitored by specialists; and
 - the number of specialists monitoring this treatment.

[36] I find that all of the information the City collected is “personal information” because it is recorded information about the complainant, who is an identifiable individual, and it is not contact information. I find that the City “collected” this personal information because it both sought and received it.

Was the personal information “directly related to” a City program or activity?

[37] The City submits that it collected the complainant’s personal information from Acclaim to manage its employment relationship with the complainant, which included verifying her restrictions in order to:

- accommodate her during the investigation;
- assess whether it was reasonable to demand she attend a meeting;
- determine the implications of non-attendance, including if it should be considered insubordination; and
- determine whether it would be appropriate for the investigation to proceed without the complainant’s participation.²⁴

²³ Since I do not have the relevant medical report before me, I cannot conclude Acclaim directly quoted from the complainant’s medical report.

²⁴ City’s submission at paras 60 and 64-67.

[38] The City submits it collected the complainant's personal information during an investigation into employee misconduct, which is part of managing employment, and, therefore, the personal information is directly related to its activities as a public body.²⁵

[39] The complainant submits that invoking "employment management" and "investigation" at a high level of abstraction does not satisfy the test of whether the collection was directly related to a City program or activity.²⁶ She submits she was on permanent and total disability, her position had been released, and there was no return-to-work or accommodation process underway.²⁷ She submits that the City confirmed the "cessation of [the] employment relationship" in January 2022 when it required her to return City property and informed her that her position would be released and it would be hiring someone in the role to assist the department with operational demands.²⁸

[40] For the reasons that follow, I find the personal information the City collected was directly related to an activity of the City, which is a public body.

[41] Previous OIPC decisions have found that a public body managing its responsibilities as an employer can be an activity of the public body for the purpose of s. 26(c).²⁹

[42] I find that, at the material time, the complainant was an employee of the City. I base this finding on the fact that the complainant was receiving long-term disability benefits under the Benefits Plan. Only members are entitled to benefits under the Benefits Plan, and the Benefits Plan defines "member" as "an employee admitted to membership" and "employer" as the City and its boards and commissions.³⁰ As a result, and contrary to the complainant's submission, I find that, at the time of collection, there was an employment relationship between the City and the complainant that the City was responsible for managing.

[43] I find the City collected the complainant's personal information as part of managing her employment. Specifically, I find the City collected all of the complainant's personal information as part of its investigation into allegations that she had engaged in workplace misconduct. I also find it collected the information about her restrictions and limitations to assess the reasonableness of its positions that the complainant could attend the meeting if her restrictions and limitations were accommodated and that her failure to attend could be

²⁵ *Ibid* at paras 61-62.

²⁶ Complainant's reply submission at para 473.

²⁷ *Ibid* at para 498.

²⁸ Complainant's initial submission at para 17 and page 30.

²⁹ Order F07-18, 2007 CanLII 42407 (BC IPC) at para 62; Investigation Report F12-03, 2012 BCIPC 16 (CanLII).

³⁰ HR Advisor Affidavit at Exhibit B, PDF pages 22-25.

considered insubordination. In other words, the City collected the complainant's personal information to investigate alleged employee misconduct and to make decisions about disability accommodation and employee insubordination. These actions are all clearly part of managing an employment relationship.

[44] I acknowledge the complainant believes the City could not require her to attend a meeting as part of the investigation because she was receiving long-term disability benefits at the time and did not have a return-to-work plan in place. I understand that, as a result, the complainant's position is that any collection related to the meeting or investigation could not be directly related to the City's activity of managing her employment. However, the complainant has not provided, and I was unable to find, a legal authority that supports the complainant's position that an employer cannot require an employee to attend a meeting related to a workplace investigation while the employee is receiving long-term disability benefits.

[45] In conclusion, I find the personal information the City collected was directly related to the City's activity of managing the complainant's employment.

Was the personal information "necessary for" a City program or activity?

[46] In Order F07-10, former Commissioner Loukidelis considered the meaning of "necessary" for the purpose of s. 26(c). He concluded that it is not enough that the personal information would be "nice to have" or "merely convenient to have", or that it could "perhaps be of use some time in the future".³¹ At the same time, "necessary" in s. 26(c) does not mean the information must be "indispensable", or that it "would be impossible to operate a program or carry on an activity without the personal information".³² When determining whether collection is necessary for a program or activity of the public body under s. 26(c), the assessment is conducted in a searching and rigorous way, considering:

- the particular purpose for the collection;
- the amount of personal information collected;
- the sensitivity of the personal information; and
- "FIPPA's privacy protection objective" which is "consistent with the internationally recognized principle of limited collection".³³

³¹ Order F07-10, 2007 CanLII 30395 (BC IPC) at para 48.

³² *Ibid* at para 49.

³³ *Ibid*.

[47] The City submits it was required to appropriately investigate the serious allegations of misconduct made in relation to the applicant. The City submits that, given the complainant was insisting she was medically unable to attend the meeting, the City needed to verify whether it had accurate information about the complainant's restrictions and limitations.³⁴ The City submits that since the complainant was under investigation for disability benefits fraud it "could not simply accept her bald assertions" that she was medically unable to attend the meeting.³⁵

[48] The City submits that when it asked Acclaim for the complainant's personal information it was "careful to advise Acclaim what limited information was sought", stating

our question is not with respect to [the complainant's] continued eligibility for [long-term disability benefits], nor are we looking for any information on her medical conditions. In the City's view [the complainant] and Acclaim have an obligation to advise the City if there is any medically supported change in an employee's medical restrictions and limitations.³⁶

[49] The City submits the inclusion of this language demonstrates that it made efforts to avoid collecting extraneous or sensitive information.

[50] The complainant submits that the City had reasonable, viable, and less privacy-intrusive alternatives to collection, but the City ignored them. She says she offered to provide the City with an updated physicians note stating that she was medically advised not to participate in the investigation or workplace activities. She also says she offered to provide Acclaim's most recent letter confirming approval of her benefits.³⁷

[51] For the reasons that follow, I find the City has established the complainant's personal information was necessary for its activity of managing the complainant's employment.

[52] The City collected the complainant's personal information for legitimate employment management purposes. The personal information the City collected is somewhat sensitive in that it provides a summary of the complainant's restrictions and limitations and general information about her treatment plan. However, it does not include information about the complainant's medical condition, diagnosis, or prognosis. The amount of personal information collected was minimal and consistent with the internationally recognized principle of limited collection.

³⁴ City's submission at paras 66 and 67.

³⁵ *Ibid* at para 69.

³⁶ *Ibid* at para 70.

³⁷ Complainant's reply submission at paras 299, 359, 375, 395, 477, 478, 507.

[53] I find the City has established the complainant's personal information was more than merely helpful or useful for managing the complainant's employment and, specifically, investigating alleged employee misconduct and making decisions about disability accommodation and employee insubordination. In making this finding, I note the City is not required to establish that it would have been impossible to manage the complainant's employment without collecting her personal information.

[54] The complainant's submissions deal with whether there were "reasonable and viable alternatives" to collection. This language comes from Order F07-18, which dealt with *surreptitious* collection of personal information:

in the context of FIPPA, I find that the employer is not required to exhaust all possible other means of managing the relationship, without regard to whether those alternative means are reasonable or likely to succeed. However, if there are reasonable and viable alternatives to the surreptitious collection of personal information, that is a matter to be considered in determining whether the collection was necessary for the purposes of s. 26(c).³⁸

[55] The word "surreptitious" means "obtained in secret or by stealth or illicit means; clandestine" or "acting stealthily or secretly; crafty, sly".³⁹

[56] I find the City did not surreptitiously collect the complainant's personal information. The City notified the complainant that it would be contacting Acclaim to get an update about her restrictions and limitations and then later provided the complainant with a summary of the personal information it collected from Acclaim. While the City did not give the complainant notice that it would be collecting the information about her treatment plan, I find this was a procedural oversight and not surreptitious behaviour. I cannot find, based on the evidence before me, that the City acted in a manner that was stealthy, illicit, clandestine, crafty, or sly, when it collected the Complainant's personal information. As a result, I find the City did not surreptitiously collect the complainant's personal information.

[57] Nevertheless, for completeness, I will consider the complainant's submissions about reasonable and viable alternatives to collection.

[58] The complainant submits that the City did not need to collect her personal information because she would have provided the letter from Acclaim confirming she was entitled to long-term disability benefits or a note from her doctor supporting her position that she was medically unable to attend the meeting.

³⁸ Order F07-18, 2007 CanLII 42407 (BC IPC) at para 72.

³⁹ *Canadian Oxford Dictionary*, 2nd ed., Katherine Barber, ed. Don Mills, Ont.: Oxford University Press, 2004.

[59] I find the letter from Acclaim was not a reasonable and viable alternative to collection. The letter would have simply stated the complainant remained entitled to benefits and would not have provided the City with the information it needed to investigate alleged employee misconduct and make decisions about disability accommodation and employee insubordination.

[60] I also find that receiving the note from the complainant's doctor would not have been a reasonable and viable alternative to collection. The complainant suggests the doctor's note would have said she was medically unable to attend the meeting. If this were the case, the doctor's note would not have addressed the City's questions about the complainant's treatment plan, which were relevant to its investigation. I find the doctor's note would not have provided the City with an alternative way to manage the complainant's employment, which included investigating allegations of misconduct, that did not involve collecting her personal information.

[61] In conclusion, I find that the City's collection of the complainant's personal information was necessary for the City's activity of managing the complainant's employment because the collection occurred in the context of an employment investigation and the amount of personal information collected was minimal.

Conclusion – s. 26(c)

[62] Having concluded the personal information the City collected was directly related to and necessary for the activity of managing the complainant's employment, I find the City was authorized under s. 26(c) to collect the complainant's personal information.

Was the City authorized under s. 32(a) to use the personal information?

[63] Section 32(a) allows a public body to use personal information in its custody or under its control for the purpose for which the information was obtained or compiled or for a use consistent with that purpose.

[64] The City submits it used the complainant's personal information for the purpose for which it was collected, which was to manage its employment relationship with the complainant and, more specifically, to determine the reasonableness of the complainant's refusal to participate in the investigation and any accommodations needed for the meeting.⁴⁰

[65] The complainant submits that the City cannot lawfully use information it collected in non-compliance with s. 26.⁴¹

⁴⁰ City's submission at paras 72-73.

⁴¹ Complainant's reply submission at paras 519-522.

[66] I find the City used the information about the complainant’s restrictions and limitations to determine whether these restrictions and limitations could be accommodated in a manner that would enable the complainant to attend the meeting. I find this was the purpose for which the City collected this personal information in the first place.

[67] I find the City used the information about the complainant’s restrictions, limitations and treatment plan to compose the February 13 letter asking the complainant to provide more information about her restrictions, limitations, prognosis, and treatment plan. For the reasons below, I find that this second use was consistent with the City’s purpose for obtaining the information.

[68] Section 34 defines the phrase “a use consistent with that purpose” in s. 32(a) as follows:

For the purposes of section 32(a)[...] a use of personal information is consistent with the purpose for which the information was obtained or compiled if the use

- (a) has a reasonable and direct connection to that purpose, and
- (b) is necessary for performing the statutory duties of, or for operating a program or activity of, the public body that uses [...] the information.

[69] A “reasonable and direct connection” to the original purpose means the use must “flow or be derived directly from that original use and have a logical connection to the public body’s original purpose for obtaining or compiling the individual’s personal information.”⁴²

[70] I find that there was a reasonable and direct connection between the City using the complainant’s personal information to compose the February 13 letter and the purpose for which this information was collected.

[71] The City sought and received the personal information from Acclaim to get an update about the complainant’s restrictions and limitations and as part of its investigation into whether the complainant was misrepresenting her entitlement to disability benefits. After obtaining the information from Acclaim, I find the City determined it still did not have enough information and composed the February 13 letter asking the complainant to provide more information about, among other things, her restrictions, limitations and treatment plan. As part of asking the complainant to provide more information, the City included the information it already received from Acclaim, so that the complainant could better understand the City’s request. I find this use is a logical outgrowth of the original purpose.

⁴² Order F25-01, 2025 BCIPC 1 (CanLII) at para 64; see also “Investigation Report 00-01 Use of Alumni Personal Information by Universities”, 2000 CanLII Docs 327.

[72] A use is “necessary” under s. 34(b) where it is “more than helpful, more than desirable” but does not need to be “essential” for the public body to perform its statutory duties or operate its program or activity.⁴³

[73] I find the City has established that its use of the complainant’s personal information, in the February 13 letter, was necessary for the activity of managing the complainant’s employment. The City collected and used the complainant’s personal information to determine whether it had an accurate understanding of the complainant’s limitations and restrictions and how to accommodate those restrictions and limitations as part of managing the complainant’s employment. It also collected the information about her treatment plan as part of its investigation into allegations of workplace misconduct. Once the City determined it did not have enough information on these subjects, it sought further personal information from the complainant. I am satisfied that the City included the information it received from Acclaim, in the February 13 letter, not merely because it was helpful or desirable to do so, but because it was necessary to communicate what personal information the City had just received from Acclaim in order to frame its request for the complainant to provide additional personal information.

[74] Based on the above, I find the City was authorized under s. 32(a) to use the complainant’s personal information to determine whether the complainant’s disability could be accommodated to enable her to attend the meeting and also to compose the February 13 letter to the complainant.

Was the City authorized under s. 33(d) or (h) to disclose the personal information?

[75] A public body may only disclose personal information if the disclosure is authorized under FIPPA. I find the following parts of s. 33 relevant to this inquiry:

33 (1) A public body may disclose personal information in its custody or under its control only as permitted by subsections (2) to (9) or by section 33.3.

(2) A public body may disclose personal information in any of the following circumstances:

[...]

(d) for the purpose for which the information was obtained or compiled, or for a use consistent with that purpose within the meaning of section 34 [definition of consistent purpose];

⁴³ Order F25-01, 2025 BCIPC 1 (CanLII) at para 94.

[...]

(h) to an officer or employee of the public body, or to a minister, if the information is necessary for the performance of the duties of the officer, employee or minister;

Disclosure to City employees – s. 33(2)(h)

[76] The City submits that copying the Chief HR Officer on the February 13 letter was not a disclosure and instead was an internal communication. In the alternative, it submits that, to the extent this was a disclosure, the disclosure was authorized under s. 33(2)(h) because the Chief HR Officer clearly needed to know about the City's dealings with the complainant and her participation in the investigation.

[77] The complainant submits the City disclosed her medical information to internal staff without consent or legal authority.⁴⁴ She submits the City has not established that it was authorized to share her medical information with the Chief HR Officer, who was copied on the February 13 letter.⁴⁵ She submits disclosure was not necessary for the Chief HR Officer to perform her duties because the City had already decided to move forward with the investigation and the complainant had no imminent plan to return to work.⁴⁶

[78] The complainant also submits the City has not established it was authorized to disclose her personal information to the General Manager who was copied on the letter terminating her employment.⁴⁷ She submits that when she worked in her job at the City, her department was stationed in a different branch and did not move under the branch the General Manager oversees until after she went on leave.

[79] I find the City disclosed the complainant's personal information to:

- the Chief HR Officer in the February 13th letter; and
- the General Manager in the letter terminating the complainant's employment.

[80] I find the City was authorized under s. 33(2)(d) to disclose the complainant's personal information to the Chief HR Officer and the General Manager.

⁴⁴ Complainant's initial submission at para 58.

⁴⁵ Complainant's reply submission at para 535.

⁴⁶ *Ibid* at para 548.

⁴⁷ *Ibid* at para 539.

[81] At the time these letters were sent, the complainant was an employee of the City. The City was actively investigating allegations that the complainant was engaging in workplace misconduct related to misrepresenting her disability status. The City sent these letters as part of managing the complainant's employment. The Chief HR Officer is ultimately responsible for human resources matters. The General Manager was the person who would have been responsible for overseeing the complainant's department had the complainant not been away from work due to her disability. I find that the disclosure of the complainant's personal information to these employees was necessary for the performance of these employees' duties under s. 33(2)(h).

Disclosure to Acclaim – s. 33(2)(d)

[82] I find the City did not disclose any of the complainant's personal information in its January 20 email to Acclaim.

[83] However, I find it did disclose the Complainant's personal information to Acclaim in its January 18 email, specifically:

- the fact that the complainant was receiving long-term disability benefits;
- the fact that the City wanted to meet with the complainant about a workplace matter;
- the City's understanding of the complainant's restrictions and limitations and how to accommodate them so that she could attend the meeting; and
- the complainant's position that she was medically unable to attend the meeting.

[84] All of the above is recorded information about the complainant, who is an identifiable individual, and it is not contact information.

[85] The City compiled the personal information listed above in its January 18 email to Acclaim. This personal information came from a variety of sources. For example, the Burnaby Municipal Benefits Society notified the City that the complainant's long-term disability benefits had been approved⁴⁸ and the complainant herself informed the City that she was medically unable to attend the meeting.

⁴⁸ Email from the City to the complainant dated January 12, 2022, attached to the complainant's initial submission at PDF page 30.

[86] The City submits, to the extent it disclosed the complainant's personal information to Acclaim, such disclosure was consistent with the original purpose of collection – managing the complainant's employment – and, therefore, the disclosure was authorized under s. 33(2)(d).⁴⁹

[87] The complainant submits that the City was not authorized to disclose her personal information to Acclaim.⁵⁰ The complainant submits there was no reason for the City to disclose her personal information to Acclaim because she was receiving long-term disability benefits and was not participating in a return-to-work program.

[88] I find, based on the City's communications with the complainant and Acclaim, that the City disclosed the complainant's personal information for the same purpose for which it was compiled. Specifically, I find the City compiled and then disclosed the complainant's personal information for the purpose of verifying whether it had the most up-to-date information about the complainant's restrictions and limitations as part of managing her employment and, specifically, because there was a conflict between the City and the complainant about whether she was medically able to attend the meeting.

[89] I find the City was authorized under s. 33(2)(d) to disclose the complainant's personal information to Acclaim for the purposes of getting an update about her medical restrictions and limitations in order to assess her claim that she was medically unable to attend a meeting. As I found above, this purpose was directly related to the City's activity of managing the complainant's employment.

Other alleged disclosures

[90] The complainant also submits the City has not addressed whether it disclosed her personal medical information to the external investigator it hired to conduct the workplace investigation, her union, or other third parties.⁵¹

[91] I was not provided with sufficient proof of any other disclosures, and there are no other substantiated disclosures that are apparent from the parties' submissions or evidence. I find there are no other disclosures of the complainant's personal information to be adjudicated in this inquiry.

⁴⁹ City's submission at para 90.

⁵⁰ Complainant's initial submission at para 58.

⁵¹ Complainant's reply submission at paras 540 and 541.

Conclusion

[92] I found above that the City collected, used, and disclosed the complainant's personal information in compliance with ss. 26(c), 32(a), 33(2)(d), and 33(3)(h).

[93] Section 58 sets out the orders I can make after completing an inquiry. The parts of s. 58 that are relevant to this inquiry read:

58(1) On completing an inquiry under section 56, the commissioner must dispose of the issues by making an order under this section.

[...]

(3) If the inquiry is into any [matter other than a public body's decision to give or refuse to give access to all or part of a record], the commissioner may, by order, do one or more of the following:

[...]

(e) require a public body or service provider to stop collecting, using or disclosing personal information in contravention of this Act, or confirm a decision of a public body or service provider to collect, use or disclose personal information;

(4) The commissioner may specify any terms or conditions in an order made under this section.

[94] Under s. 58(3)(e), I confirm the City's decision to collect, use and disclose the complainant's personal information.

CONCLUSION

[95] For the reasons given above, I find the City was authorized to collect, use, and disclose the complainant's personal information under ss. 26, 32, and 33 of FIPPA.

June 29, 2026

ORIGINAL SIGNED BY

Rene Kimmett, Adjudicator

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