Order F26-81

LAW SOCIETY OF BRITISH COLUMBIA

Rene Kimmett
Adjudicator

September 18, 2026

CanLII Cite: 2026 BCIPC 101
Quicklaw Cite: [2026] B.C.I.P.C.D. No. 101

Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (applicant) asked the Law Society of British Columbia (Law Society) for access to records related to complainants he made against members of the Law Society. The Law Society withheld records and parts of records under various sections of FIPPA. The adjudicator found the Law Society was authorized to withhold a small amount of information under s. 13(1) (advice or recommendations) and all the information in dispute under s. 14 (solicitor-client privilege). The adjudicator also found the Law Society was required to withhold most of the information in dispute under s. 22(1) (unreasonable invasion of third-party personal privacy). The adjudicator ordered the Law Society to give the applicant access to the information it was not authorized or required to withhold.

Statutes Considered: *Freedom of Information and Protection of Privacy Act,* RSBC 1996, c. 165, ss. 13(1), 14, 22(1), 22(2)(e), 22(2)(f), 22(3)(d), and 22(4)(e).

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (applicant) asked the Law Society of British Columbia (Law Society) for access to records related to complaints he made against lawyers who are members of the Law Society (Members).

[2] The Law Society gave the applicant access to responsive records but partially or entirely withheld some of the records under ss. 13(1) (advice or recommendations), 14 (solicitor-client privilege), 17(1) (harm to financial or economic interests) and 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA.

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Law Society's decision to withhold information from the responsive records.

[4] During OIPC-led mediation, the Law Society disclosed further information to the applicant and withdrew its reliance on s. 17(1). However, the rest of the issues in dispute were not resolved and the matter proceeded to this inquiry.

ISSUES AND BURDEN OF PROOF

[5] In this inquiry, the issues are whether the Law Society is authorized under ss. 13(1) or 14 or required under s. 22(1) to refuse the applicant access to the information in dispute.

[6] The Law Society has the burden to prove the applicant has no right of access to a record or part of a record withheld under ss. 13(1) or 14.[1] The Law Society also has the burden to prove that the information it has withheld under s. 22(1) is personal information.[2]

[7] The applicant has the burden to prove that disclosure of the personal information withheld under s. 22(1) would not be an unreasonable invasion of a third party's personal privacy.[3]

DISCUSSION

Background

[8] The Law Society regulates lawyers and the practice of law in British Columbia. The applicant made complaints to the Law Society about the Members.

Records at issue

[9] The Law Society has entirely withheld 79 records under s. 14. The Law Society has also withheld some information in 97 other records under ss. 13(1) and 22(1). The records consist of emails, letters, draft documents, invoices, and files from the Law Society's internal information tracking system.

Section 14 – solicitor-client privilege

[10] Section 14 says that the head of a public body may refuse to disclose information that is subject to solicitor-client privilege.

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[1] FIPPA, s. 57(1).
[2] Order 03-41, 2003 CanLII 49220 at paras 9–11.
[3] FIPPA, s. 57(2).

Sufficiency of evidence to substantiate the s. 14 claim

[11] The Law Society did not provide me with the records it withheld under s. 14. The applicant submits that I should review the records withheld under s. 14 as part of determining whether solicitor-client privilege applies to these records.[4]

[12] Section 44(1)(b) gives me, as the Commissioner's delegate, the power to order production of records during an inquiry. However, given the importance of solicitor-client privilege, and in order to minimally infringe on that privilege, I would only order production of records being withheld under s. 14 if it is absolutely necessary to fairly decide the issues in dispute.[5]

[13] The Law Society provided affidavits from three lawyers (collectively, the Lawyers) describing the records withheld under s. 14. Two of the Lawyers were external legal counsel (External Lawyers), and the third lawyer was previously the Manager of Intake and Early Resolution with the Law Society (Manager) when the records in dispute were created.

[14] The Lawyers' evidence includes a description of each of the records and an explanation of the grounds on which privilege is claimed. I am satisfied that the Lawyers have reviewed the records in dispute and have insights into the context in which the records were created.

[15] Based on the above, I find I have sufficient evidence to decide whether the records withheld under s. 14 are subject to solicitor-client privilege without ordering production of the records for my review.

Solicitor-client privilege

[16] Solicitor-client privilege protects confidential communications between a solicitor and client made for the purpose of seeking, formulating, or providing legal advice, opinion, or analysis. To be protected by solicitor-client privilege, the information must:

- be a communication between a solicitor and client (or their agent);
- entail the seeking or providing of legal advice; and
- be intended by the solicitor and client to be confidential.[6]

[4] Applicant's submission at pages 8 and 9.
[5] Order F14-19, 2014 BCIPC 16 at para 10; *Canada (Privacy Commissioner) v Blood Tribe Department of Health*, 2008 SCC 44 at para 17*; Alberta (Information and Privacy Commissioner) v University of Calgary*, 2016 SCC 53 at para 68.
[6] *Solosky v. The Queen*, 1979 CanLII 9 (SCC), [1980] 1 SCR 821 at 837.

[17] Not every communication between client and solicitor is protected by solicitor-client privilege. However, if the conditions set out above are satisfied, then solicitor-client privilege applies.

[18] Solicitor-client privilege extends to communications that are a "part of the continuum of communications", which includes the necessary exchange of information between solicitor and client for the purpose of obtaining and providing legal advice such as "history and background from a client" or communications to clarify or refine the issues or facts.[7] It also protects internal client communications about legal advice and its implications that would reveal the content of privileged communications.[8]

[19] Email attachments are not automatically privileged simply because they are appended to a privileged communication. An email attachment may be privileged on its own or if it is an integral part of the communication to which it is attached and would reveal the communication protected by solicitor-client privilege.[9]

[20] Based on the Lawyers' evidence, I find that the records the Law Society has withheld under s. 14 are:

- emails and attachments involving the External Lawyers
- Invoices for legal services
- Internal staff communications
- emails and attachments involving the Manager
- Communications between Law Society members and their clients

[21] I discuss whether solicitor-client privilege applies to these records under the subheadings below.

<u>Emails and attachments involving the External Lawyers</u>

[22] Where a lawyer acts only as an investigator, there is no privilege protecting communications to or from the lawyer. If, however, the lawyer is conducting an investigation for the purposes of giving legal advice to their client, solicitor-client privilege will attach to the communications between the lawyer and the client.[10]

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[7] *Camp Development Corporation v. South Coast Greater Vancouver Transportation Authority,* 2011 BCSC 88 (CanLII) at paras 40-46; *Huang v. Silvercorp Metals Inc.*, 2017 BCSC 795 at para 83.
[8] Order F22-16, 2022 BCIPC 18 (CanLII) at para 31.
[9] *British Columbia (Minister of Finance) v British Columbia (Information and Privacy Commissioner)*, 2021 BCSC 266 at paras 110-111.
[10] *College of Physicians of BC v British Columbia (Information and Privacy Commissioner)* 2002 BCCA 665 [*College of Physicians*] at para 32.

[23] The Law Society submits it engaged the External Lawyers to carry out investigations and provide legal advice related to professional conduct complainants made against its members. The External Lawyers depose that they were engaged as legal counsel by the Law Society for the purpose of providing legal advice about complaints made against the Law Society's members.

[24] The External Lawyers state that the records are emails and email attachments that they exchanged with Law Society staff in which the staff sought, and the External Lawyers provided, legal advice. The External Lawyers describe the attachments more specifically as documents they prepared that comprise legal advice, engagement letters retaining and instructing the External Lawyers, or documents that would reveal the subject matter of the privileged communications to which they are attached.

[25] Based on the Law Society's evidence, I find there was a solicitor-client relationship between the Law Society and the External Lawyers and that the External Lawyers conducted investigations for the purposes of giving legal advice to the Law Society.

[26] I also find that the Lawyers' affidavit evidence establishes the emails are communications between the External Lawyers and Law Society staff that entailed seeking or giving legal advice and that were intended to be confidential.

[27] I am satisfied that the attachments to the emails either contain legal advice, are part of the continuum of communications necessary for seeking or providing legal advice or would reveal the legal advice contained in the emails to which they were attached.

[28] I find all of these records are subject to solicitor-client privilege and may be withheld under s. 14.

<u>Invoices for legal services</u>

[29] The Supreme Court of Canada has found that a lawyer's billing information is presumptively subject to solicitor-client privilege because an assiduous inquirer might use legal billing information to draw inferences about privileged communications.[11] A party who wants access to a lawyer's fee information can rebut the presumption by proving that there is no reasonable possibility that disclosure would directly or indirectly reveal a privileged communication.[12]

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[11] *Maranda v. Richer*, 2003 SCC 67 at para 33.
[12] *Donell v. GJB Enterprises Inc.,* 2012 BCCA 135 at para 59

[30] The External Lawyers depose that some of the records withheld under s. 14 are invoices itemizing and describing fees incurred, time expended, and work performed by the External Lawyers. The Law Society submits they contain detailed information and entries about specific tasks that were performed by the External Lawyer and their disclosure would either directly reveal or permit inferences to be made about privileged communications.[13]

[31] I accept the Law Society's affidavit evidence describing the records as invoices itemizing and describing fees incurred, time expended, and work performed by the External Lawyers. As a result, I find that the information in the withheld invoices is presumptively subject to solicitor-client privilege.

[32] Whether an applicant has successfully rebutted the presumption depends on the facts and circumstances of each case. Previous orders have weighed the following non-exhaustive factors when considering this issue:

- The stage of the underlying proceedings;
- The type of underlying proceedings;
- Whether the billing information is about one or more legal matters;
- The level of detail in the billing information;
- The applicant's involvement in the legal matter;
- The applicant's pre-existing knowledge about the legal matter; and
- The amount of publicly available information about the legal matter.[14]

[33] Neither party makes submissions about whether the presumption has been rebutted.

[34] Based on the External Lawyers' evidence, described above, I find that the disputed information is quite detailed. Additionally, the applicant was involved in the complaints about the Members and, therefore, has pre-existing knowledge about the legal matter that is the subject of the invoices. For these reasons, I am satisfied that the presumption has not been rebutted and there is a reasonable possibility that disclosure of the information in the invoices could directly or indirectly reveal communications protected by privilege.

[35] I find all of the information in the invoices is subject to solicitor-client privilege and may be withheld under s. 14.

<u>Internal staff communications</u>

[36] As set out above, the scope of legal advice privilege extends beyond the actual requesting or giving of legal advice and includes internal client

[13] Law Society's initial submission at paras 35, 38, 39, and 44.
[14] Order F21-52, 2021 BCIPC 60 (CanLII) at paras 24-30.

communications about legal advice and its implications that would reveal the content of privileged communications.[15]

[37] The External Lawyers depose that some of the records are emails sent between Law Society staff that discuss communications between the Law Society and one of the External Lawyers. I accept this evidence and find that these records are internal client communications that, if disclosed, would reveal privileged information. As a result, I find these records are subject to solicitor-client privilege.

Emails and attachments involving the Manager

[38] The Manager deposes some of the records are emails and attachments sent between herself, the Law Society's Chief Executive Officer, who is also a lawyer, and the Law Society's General Counsel. She deposes other records are emails and attachments sent between herself and Law Society staff. The Manager describes the attachments to the emails as documents prepared by a Law Society lawyer that comprise legal advice.

[39] The Manager deposes: "In receiving and responding to [these] communications, I understood that I was being asked to provide legal advice to the Law Society, and I considered my responses to be in the nature of legal advice."[16]

[40] I accept the Manager's evidence, including her more detailed descriptions of the records, that she was acting in a legal capacity and not merely in a business or administrative capacity, when participating in the communications contained in the records. I find that the emails and the attachments are communications between solicitor and client that entailed seeking or providing legal advice and that were intended by all involved to be confidential.

Communications between members and their clients

[41] The Manager deposes that some of the emails between herself and other Law Society employees attached privileged communications between a Law Society member and their client that were shared with the Law Society in order for the Law Society to carry out its duties.

[42] The Law Society submits:

> In the course of performing its mandated role as the professional regulatory body for the legal profession, the Law Society is routinely called upon to request and review communications between lawyers

[15] Order F22-16, 2022 BCIPC 18 (CanLII) at para 31.
[16] Manager's affidavit at para 6.

> (i.e. Members) and their clients for the purposes of investigating and responding to complaints of professional misconduct. Section 88 of the *Legal Profession Act* specifically preserves solicitor client privilege in such Member-client communications and subjects the Law Society to strict confidentiality requirements and obligations to preserve privilege in such records.[17]

[43] I find that these emails and attachments, sent between the Manager and other Law Society employees, are confidential communications between a lawyer and their client that entail the seeking or providing of legal advice. I find this information is subject to solicitor-client privilege.

<u>Applicant's arguments about s. 14</u>

[44] The applicant submits that solicitor-client privilege does not apply simply because legal counsel was involved or copied on a communication.

[45] The applicant is correct. However, in this case, I find the Law Society has provided evidence about the content and purpose of each record that is sufficient to establish that each record contains confidential communications that either entail the seeking or providing legal advice, fall within the continuum of communications, or would reveal privileged information.

<u>Conclusion -s. 14</u>

[46] For the above reasons, I find the Law Society is authorized by s. 14 to entirely withhold the records in dispute that I have found are subject to solicitor-client privilege.

Section 13 – advice or recommendations

[47] Section 13(1) authorizes the head of a public body to refuse to disclose information that would reveal advice or recommendations developed by or for a public body or minister.

[48] Section 13 protects a public body's internal decision-making and policy-making processes, in particular while the public body is considering a given issue, by encouraging the free and frank flow of advice and recommendations.[18]

[49] There are two steps in the analytical approach to s. 13(1). First, I must determine whether disclosing the withheld information would reveal advice or recommendations developed by or for a public body. If it would, the second step is to determine whether any of the circumstances in ss. 13(2) or (3) apply.

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[17] Law Society's initial submission at para 53.
[18] Order 01-15, 2001 CanLII 21569 at para 22.

If either ss. 13(2) or 13(3) apply to the information in dispute, then that information cannot be withheld under s. 13(1).

[50] The term "recommendations" includes material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised and can be express or inferred.[19] The term "advice" has a broader meaning than "recommendations."[20] "Advice" includes an opinion that involves exercising judgment and skill to weigh the significance of matters of fact, including expert opinion on matters of fact on which a public body must make a decision.[21]

[51] Under s. 13(1), the Law Society has withheld:

- draft letters to the Members,
- emails between a Member and one of the External Legal Counsel,
- emails between a Law Society intake director and intake staff,
- handwritten notes, and
- a note to file.

[52] The Law Society submits that all the information it has withheld clearly constitutes advice and recommendations. It submits the information was developed by Law Society staff, whose role is inherently advisory. It submits the advice and recommendations were developed and exchanged in the course of staff performing their professional responsibilities as part of their employment.

[53] The applicant submits that s. 13 does not protect purely factual information and, therefore, any factual summaries, complaint histories, timelines, correspondence logs, or other objective information should be disclosed.

[54] For the reasons that follow, I find the Law Society has not established that s.13(1) applies to the draft letters, emails, or the handwritten notes.

[55] Past orders have repeatedly said that s. 13(1) does not automatically apply to a document merely because it is a draft. A public body may only withhold the parts of a draft that would reveal, or allow accurate inferences to be made about, advice or recommendations.[22] In this case, the Law Society has not adequately explained how disclosing the draft letters would reveal advice or recommendations. The letters do not, on their face, reveal advice or recommendations. For example, they do not contain inserted comments, tracked

[19] *John Doe v. Ontario (Finance)*, 2014 SCC 36 at paras 23-24.
[20] *Ibid* at para 24.
[21] *College of Physicians, supra* note 10 at para 113.
[22] Order 00-27, 2000 CanLII 14392 at p 6; Order 03-37, 2003 CanLII 49216 at para 60; Order F23-82, 2023 BCIPC 98 (CanLII) at para 17.

changes, expert opinions or suggested courses of action.

[56] I have reviewed the emails sent between a Member and one of the External Legal Counsel. The emails the External Lawyer sent explain how they will be dealing with a complaint file. I cannot see anything that would reveal advice or recommendations developed by or for the Law Society. Without a clear explanation from the Law Society, I find s. 13(1) does not apply to the information in these records.

[57] The emails sent between the Law Society's intake director and intake staff contain questions from the staff to the director and the director's responses, which contain instructions to her subordinates. There is no evidence that the staff had the discretion to not follow these instructions, which supports my finding that the staff were not receiving advice or recommendations. Further, a question or request for advice does not fall under s. 13(1) unless it would reveal or allow accurate inferences to be made about advice actually received.[23] In this case, I find the questions do not allow accurate inferences to be made about advice or recommendations particularly because no advice or recommendations were received in response to the questions.

[58] The handwritten records consist of a call log, which describes actions taken by a Law Society employee, an instruction about where to send a document, and an employee's note to self about how to deal with a complaint. I cannot see anything in these records that would reveal advice or recommendations developed by or for the Law Society. The Law Society has not met its burden to prove s. 13(1) applies to the information in these records.

[59] In contrast, I find s. 13(1) applies to the note to file.[24] The note to file summarizes a discussion between two Law Society staff in which one sought and received advice from the other one. In this case, the request for advice would reveal the content of the advice received.

[60] Section 13(2) sets out the kinds of information that a public body must not refuse to disclose under s. 13(1), even if they reveal advice or recommendations. I find that the information in the note to file does not fall within any of the categories listed under s. 13(2). Lastly, the note to file was created in 2019. It has not yet been in existence for 10 years, so s. 13(3) does not apply.

[61] The Law Society is authorized to withhold the information in the note to file but none of the other information in dispute under s. 13(1).

Section 22(1) – unreasonable invasion of third-party personal privacy

[23] Order F19-27, 2019 BCIPC 29 (CanLII) at para 32.
[24] Records package at page 428.

[62] Section 22(1) requires a public body to refuse to disclose personal information if disclosure would unreasonably invade a third party's personal privacy. A third party is any person other than the applicant and a public body.[25]

[63] There are four steps in the s. 22(1) analysis and I will apply each step under the subheadings below.[26]

Section 22(1) – personal information

[64] The first step in the s. 22(1) analysis is to determine whether the information in dispute is personal information. Personal information is defined in FIPPA as "recorded information about an identifiable individual other than contact information".[27]

[65] Information is about an identifiable individual when it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.[28] Contact information is defined as "information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual".[29] Whether information is "contact information" depends on the context in which it appears.[30]

[66] The Law Society has applied s. 22(1) to:

- template information in letters from Law Society staff to the Members;
- signature blocks in letters from Law Society staff to the Members;
- information about the Members;
- information exchanged between Law Society intake staff;
- information sent from an External Lawyer to a Member.

[67] I find that the template information in the letters is not about an identifiable individual and, therefore, does not meet the definition of personal information.

[68] I find that the information in the signature blocks in the letters from Law Society staff to the Members is contact information because it appears in the letter to enable the writer of the letter to be contacted at their place of business. This information does not meet the definition of personal information and cannot be withheld under s. 22(1).

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[25] FIPPA, Schedule 1
[26] Order F15-03, 2015 BCIPC 3 (CanLII) at para 58.
[27] FIPPA, Schedule 1
[28] Order F05-30, 2005 CanLII 32547 (BC IPC) at para 35.
[29] FIPPA, Schedule 1.
[30] Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.

[69] The Law Society has withheld information about the Members under s. 22(1), including

- the unique identifiers assigned to them by the Law Society's electronic system,
- their phone numbers, addresses, and email addresses,
- their responses to the complaints made against them,
- their indemnity status,
- their gender,
- their middle names,
- their date or year of birth,
- their filings with the Law Society,
- professional development courses they have taken,
- their work and educational backgrounds,
- complaints, disciplinary actions, and legal claims made against them,
- the substance of the applicant's complaints against the Members.

[70] Some of the phone numbers the Law Society has withheld are the Members' direct work phone numbers and others are their personal home or cellphone numbers. I find that the personal phone numbers are personal information because I am satisfied that they were not provided to enable the Members' to be contacted at their place of business or for business purposes. However, I find that the Members' direct work phone numbers are business telephone numbers and were provided to enable these individuals to be contacted at their place of business for business purposes.[31] The direct work phone numbers are contact information, not personal information and, therefore, cannot be withheld under s. 22(1).

[71] I am satisfied that the remainder of the information in dispute is the personal information of the Members.

[72] The substance of the applicant's complaints is simultaneously the applicant's and the Members' personal information. The information exchanged between the intake staff is the personal information of the staff, the applicant, and the Members. The information sent from an External Lawyer to a Member is the personal information of the External Lawyer and the applicant.

[73] In summary, the Law Society cannot withhold the template information, signature blocks, or direct work phone numbers under s. 22(1) because this information is not personal information. The rest of the information in dispute is

[31] On pages 95, 100, and 101 of the records package, the phone number listed as a direct work number is the same number as the home phone number listed below it. As a result, I find this number is a personal phone number and not a direct work phone number.

personal information and, therefore, I will continue to analyse it under the remaining steps in the s. 22(1) analysis.

Section 22(4) – not an unreasonable invasion of personal privacy

[74] The second step in the s. 22(1) analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(4). If it does, its disclosure is deemed not to be an unreasonable invasion of personal privacy and, therefore, it cannot be withheld under s. 22(1).

[75] The Law Society submits none of the categories under s. 22(4) apply to the information in dispute. The applicant did not make submissions specifically about s. 22(4).

[76] Based on my review of the records, I find that s. 22(4)(e) is relevant. Section 22(4)(e) says that disclosure of third-party personal information is not an unreasonable invasion of third-party personal privacy if the information is about the third party's position, functions, or remuneration as an officer or employee of a public body. Past orders have established that s. 22(4)(e) applies to objective, factual statements about what a public body employee did or said in the normal course of performing their duties.[32]

[77] I find that some of the information exchanged between the intake staff is about what the staff did in the normal course of performing their job duties.

[78] I also find that the information sent from the External Lawyer to the Member is about what the External Lawyer did in the normal course of performing her job duties, specifically it is logistical information about managing the complaint file initiated by the applicant. Under FIPPA, an "employee" includes a service provider and a service provider" is defined as a person retained under a contract to perform services for a public body. I find that the External Lawyer was retained under a contract to investigate the applicant's complaints and, therefore, find she was an employee of the Law Society for the purpose of s. 22(4)(e).

[79] Disclosure of the personal information identified above would not be an unreasonable invasion of the third parties' personal privacy. Section 22(4)(e) applies to this personal information and, therefore, it cannot be withheld under s. 22(1).

[80] I find that none of the other s. 22(4) categories are relevant to the personal information in dispute.

[32] Order F24-10, 2024 BCIPC 14 (CanLII) at para 45; Order F09-15, 2009 BCIPC 58553 (CanLII) at para 15; and Order F14-41, 2014 BCIPC 44 (CanLII) at para 24.

Section 22(3) – presumed an unreasonable invasion of personal privacy

[81] The third step in the s. 22(1) analysis is to determine whether any of the presumptions listed under s. 22(3) apply to the personal information in dispute. If one or more apply, then disclosure of that personal information is presumed to be an unreasonable invasion of personal privacy.

[82] The Law Society submits that s. 22(3)(d) applies to some of the personal information in dispute. The applicant does not say anything specifically about s. 22(3).

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

[84] I find that the following information relates to the employment histories of the Members:

- the substance of the complaints made against them;
- their responses to the complaints;
- their professional development and work experience;
- their indemnity status and filings with the Law Society.

[85] I also find the information about the degrees the Members earned and schools they attended relates to their educational histories.

[86] Disclosure of this personal information is presumptively an unreasonable invasion of the Members' personal privacy under s. 22(3)(d). Section 22(3)(d) does not apply to the other personal information in dispute.

[87] None of the other s. 22(3) categories are relevant to the personal information in dispute.

Section 22(2) – relevant circumstances

[88] The final step in the s. 22(1) analysis is to consider all relevant circumstances, including those listed in s. 22(2), to determine whether the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy. It is at this step that the applicant may rebut the s. 22(3)(d) presumption that I found applies to some of the information in dispute.

[89] The Law Society says ss. 22(2)(e) and 22(2)(f) weigh in favour of withholding the personal information in dispute. The applicant says the fact that he already knows some of the information in dispute favours disclosure. I will

also consider the fact that some of the personal information in dispute is the applicant's personal information.

Section 22(2)(e) – exposure to unfair harm

[90] Section 22(2)(e) asks whether disclosing the personal information would expose a third party unfairly to financial or other harm. If it would, this weighs against disclosing the information.

[91] For the purposes of s. 22(2)(e), "harm" includes serious mental distress or anguish or harassment. Embarrassment, upset, or negative reactions, without more, do not rise to the required level of mental harm.[33]

[92] The Law Society submits that disclosure of the information in dispute could reasonably be expected to expose investigation participants to harm because they "may experience anxiety, damage to relationships, […] reputational harms […] fraud, identity theft, financial loss and impersonation."[34]

[93] I find the Law Society's submission is vague and speculative and did not provide enough evidence or persuasive explanation to establish that disclosure of the information in dispute would expose anyone to harm. Without a cogent basis, I cannot conclude, based only on reviewing the personal information in dispute, that disclosure would expose the Members to the kinds of financial or other harm contemplated under s. 22(2)(e).

Section 22(2)(f) – supplied in confidence

[94] Section 22(2)(f) asks whether the personal information was supplied in confidence. In order for s. 22(2)(f) to apply, there must be evidence that an individual supplied the information and that they did so with an objectively reasonable expectation of confidentiality at the time the information was provided.[35]

[95] The Law Society submits that its complaints process is confidential. To support this position, it cites Law Society Rule 3-3, which says:

> 3-3 (1) The Society must treat as confidential all information and records that form part of the investigation of a complaint or the review of a complaint by the Complainants' Review Committee except for the purpose of complying with the objectives of the Act or with these rules.

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[33] Order F26-15, 2026 BCIPC 19 (CanLII) at para 80.
[34] Law Society's initial submission at paras 89 and 90.
[35] Order F22-13, 2022 BCIPC 15 (CanLII) at para 108; Order 01-36, 2001 CanLII 21590 (BC IPC) at paras 23-26.

[96] It also cites parts of ss. 87 and 88 of the *Legal Profession Act.* Section 87 reads, in part:

> (2) If a person has made a complaint to the society respecting a lawyer or law firm, neither the society nor the complainant can be required to disclose or produce the complaint and the complaint is not admissible in any proceeding, except with the written consent of the complainant.
>
> (3) If a lawyer or law firm responds to the society in respect of a complaint or investigation, none of the lawyer, the law firm or the society can be required to disclose or produce the response or a copy or summary of it, and the response or a copy or summary of it is not admissible in any proceeding, except with the written consent of the lawyer or law firm, even though the executive director may have delivered a copy or summary of the response to the complainant.

[97] I conclude that the disclosure restrictions created by the above-quoted parts of the Law Society Rule and the *Legal Profession Act* are sufficient to establish that the Members responded to the complaints made against them with the objectively reasonable expectation that they were supplying their responses in confidence.

Applicant's knowledge

[98] Where an applicant already knows some of the personal information in dispute this can weigh in favour of disclosing it to them. The applicant submits "where information is already publicly available or known to the Applicant, the privacy interests may be reduced."[36]

[99] The Law Society has withheld the contents of the complaints the applicant made about the Members. Having made these complaints, the applicant clearly knows their contents. However, the context in which the complaints appear in the records reveals information not already known to the applicant. As a result, I find this factor weighs only slightly in favour of disclosure of the personal information contained in the applicant's complaints.

Applicant's personal information

[100] Previous OIPC decisions have found that the fact that information is an applicant's own personal information weighs in favour of disclosure. However, the weight of this factor is limited where the information in dispute is simultaneously the applicant's personal information and the personal information of other individuals.[37]

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[36] Applicant's submission at para 21.
[37] Order F24-31, 2024 BCIPC 38 (CanLII) at para 141; Order F15-52, 2015 BCIPC 55 at para 45, Order F22-31, 2022 BCIPC 34 (CanLII) at para 85.

[101] Some of the personal information in the Members' responses to the complaints is the joint personal information of the applicant and the Member. I find the fact that it is his personal information weighs slightly in favour of disclosure.

Conclusion – s. 22

[102] I found most, but not all, of the information in dispute is personal information.

[103] I found that the personal information about what the Law Society's staff and the External Lawyer did and said in the normal course of performing their job duties fell under s. 22(4)(e) and, therefore, can not be withheld under s. 22(1).

[104] I found that most of the personal information in dispute relates to the Members' educational and employment histories and, therefore, its disclosure is presumed to be an unreasonable invasion of the Members' personal privacy under s. 22(3)(d). Specifically, this personal information is the substance of the complaints and the Member's responses to the complaints as well as the information about the Member's professional development, work experience, indemnity status, filings with the Law Society, and education.

[105] I find the fact that the applicant knows the contents of the complaints he made against the Members is not enough to rebut the presumption under s. 22(3)(d). Similarly, I find the fact that the Members' responses contain the applicant's personal information is not sufficient to rebut the presumption under s. 22(3)(d), particularly given my finding that this information was supplied in confidence.

[106] Overall, after considering all relevant circumstances, I find that the applicant has not met his burden to prove that disclosure of the personal information in dispute would not be an unreasonable invasion of third-party personal privacy. The Law Society is required to withhold the personal information in dispute that is not subject to s. 22(4)(e).

CONCLUSION

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

1. Subject to item #3 below, I confirm the Law Society is authorized to refuse access to the information in dispute under ss. 13(1) and 14.

2. Subject to item #3 below, the Law Society is required to withhold the information in dispute under s. 22(1).

3. The Law Society must give the applicant access to the information I have found it is not authorized or required to withhold under ss. 13(1) or 22(1). I have highlighted this information in red in the records package that will be provided to the Law Society with this order.

4. The Law Society must provide the OIPC registrar of inquiries with a copy of the cover letter and records it sends to the applicant in compliance with this order.

[108] Pursuant to s. 59(1) of FIPPA, the Law Society is required to comply with this order by November 3, 2026.

September 18, 2026

ORIGINAL SIGNED BY

Rene Kimmett, Adjudicator

OIPC File No.: F24-98307