

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-05

March 1, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 000589

Office URL: www.oipc.ab.ca

Summary: On March 18, 2015, an Applicant made an access request to Alberta Justice and Solicitor General (the Public Body) for emails relating to a named individual. The Public Body acknowledged receipt of this request, and extended its time to respond to the Applicant by 30 days (to May 20, 2015), pursuant to section 14(1)(b) of the Act. However, the Public Body did not respond to the Applicant by that date.

By email dated November 12, 2015, the Public Body informed the Applicant that it was late on several files, including hers, and that that it would respond to her request as soon as possible with all fees waived.

The Applicant requested a review of the Public Body's response. In the course of the inquiry, the Public Body acknowledged that it failed to meet the time limit for responding to an access request, as set out in section 11 of the Act. The Adjudicator ordered the Public Body to respond to the Applicant's access request.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 72.

I. BACKGROUND

[para 1] An Applicant made an access request dated March 18, 2015, to Alberta Justice and Solicitor General (Public Body) for emails relating to a named individual. The Public

Body sent a letter to the Applicant dated April 20, 2015, in which the Public Body extended its time to respond to her request, pursuant to section 14(1)(b) of the Act. The extension was for 30 days; the Public Body informed the Applicant that it would respond to her request by May 20, 2015, “if possible.”

[para 2] By email dated November 12, 2015, the Public Body informed the Applicant that it was late on several files, including hers, and that it would respond to her request as soon as possible with all fees waived. The Applicant responded with reasons for which she required the requested information on an expedited basis. The Public Body stated that it would “process [her] file as a priority” but could not provide the Applicant with an anticipated date by which it would respond.

[para 3] The Applicant requested a review into the Public Body’s response. By letter dated February 1, 2015, the Applicant and Public Body were informed that this issue would proceed directly to inquiry, in order to ensure a timely response to the access request.

II. RECORDS AT ISSUE

[para 4] As the issue in this inquiry relates to the timeliness of the Public Body’s response, there are no records at issue.

III. ISSUE

[para 5] The Notice of Inquiry, dated February 2, 2016 lists the issue for this inquiry as follows:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

IV. DISCUSSION OF ISSUE

[para 6] Section 11 of the Act requires a public body to respond to an access request no later than 30 days after receiving the request. Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 7] In its submission to the inquiry, the Public Body acknowledged that it did not comply with section 11 of the Act. The Public Body noted that it has numerous files that are late.

[para 8] The Public Body also stated that once the Applicant explained why she needed the requested information on an expedited basis, the Public Body prioritized her request. The Public Body stated that it “is actively processing this request and expects to be able to respond to the Applicant in the near future.”

[para 9] Lastly, the Public Body stated in its submission, that

...it is taking steps to address the issue of its inability to respond to access to information requests in accordance with section 11 of the *FOIP Act*. Its FOIP Unit has made changes to its internal processes to make them more efficient and is currently recruiting to three (3) FOIP Advisor positions. Filling these positions will help to alleviate the back log of late files, however, the impact will not be immediate.

[para 10] I understand that the Public Body is experiencing difficulties dealing with the volume of requests it receives, and appreciate that it is taking steps to address those issues. Nevertheless, the time limit for responding to an access request set out in section 11 of the Act is mandatory; in this case, the Public Body failed to meet this time limit.

V. ORDER

[para 11] I make this Order under section 72 of the Act.

[para 12] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. I order the Public Body to respond to the Applicant in accordance with the Act.

[para 13] I further order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

Amanda Swanek
Adjudicator