

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-50

October 17, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 003710

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request to Alberta Justice and Solicitor General (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for records relating to himself and his company. The Public Body responded and confirmed that it had received the access request and would attempt to process the request in the time allotted by the Act. The Applicant did not receive a response to his access request from the Public Body.

The Adjudicator found that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. Therefore, the Adjudicator ordered them to do so.

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

I. BACKGROUND

[para 1] On December 31, 2014, the Applicant made an access request to the Public Body pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for records relating to him and his company. Specifically he requested:

... all records relating to me personally, to me in my former position as the Director [of a specified department] and to my [named company] for all records

held by the Department of Justice and Solicitor General as defined in Section 1(q) of the Freedom of Information and Protection of Privacy Act, RSA Chapter F-25.

[para 2] This request was further clarified on January 7, 2015. On January 8, 2015, the Public Body sent a letter to the Applicant explaining its understanding of the revised request and informing the Applicant that it needed two pieces of identification and an original signature to process his request. The Applicant emailed the Public Body on January 23, 2015 to explain that he wanted HR records included in his request. On January 27, 2015, the Public Body wrote the Applicant and informed him that it needed a further 30 days to process his access request and that he should have a response by March 6, 2015, if possible. No response was received by March 6, 2015. The Applicant and Public Body exchanged emails about the status of the Applicant's request until at least July of 2016.

[para 3] On September 8, 2016, our Office received a Request for Review from the Applicant. The Commissioner has agreed to hold an inquiry. On September 13, 2016, the Office of the Information and Privacy Commissioner issued a Notice of Inquiry. I received submissions from the Public Body.

II. ISSUE

[para 4] The Notice of Inquiry dated September 13, 2016 states the issue in this inquiry as follows:

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

III. DISCUSSION OF ISSUE

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

[para 5] 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 6] The Public Body acknowledges that it has missed the deadline imposed by section 11. It states that it has numerous late files and is processing them in the order in which they have come in, with the exception of those that are given priority because of Court date and other such things. It further states that any fees associated with this access request will be waived.

[para 7] The Public Body further submits that it has taken steps to attempt to alleviate its backlog by hiring additional resources and making internal processes more efficient. It is also currently recruiting temporary FOIP advisors.

[para 8] I understand that the lack of resources with which to process the volume of requests received by the Public Body are serious issues the Public Body is having to deal with when attempting to respond to this specific access request. While I sympathize with the predicament in which the Public Body currently finds itself, section 11 of the Act sets out a statutory obligation which has not been met. Therefore, I find that the Public Body has breached section 11 of the Act.

IV. ORDER

[para 9] I make this Order under section 72 of the Act.

[para 10] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 11] I 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 it.

Keri H. Ridley
Adjudicator