

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2018-65

October 25, 2018

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 009833

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request dated February 4, 2018, to Alberta Justice and Solicitor General (the Public Body). The Public Body has not yet provided a response as required by the *Freedom of Information and Protection of Privacy Act* (the Act).

The Applicant requested a review of the time taken by the Public Body to respond.

The Adjudicator ordered the Public Body to respond to the Applicant's access request as required by the Act.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 72, 74.

Authorities Cited: Orders F2017-68, F2017-69, F2018-28, F2018-44.

I. BACKGROUND

[para 1] An Applicant made an access request dated February 4, 2018, to Alberta Justice and Solicitor General (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act).

[para 2] The Public Body acknowledged receipt of the request and provided March 7, 2018 as its date to respond. By letter dated March 6, 2018, the Public Body extended its time to respond to April 6, 2018. The request was clarified through a series of emails between the Public Body and the Applicant between March and April 2018.

[para 3] By letter dated May 23, 2018, the Public Body notified the Applicant that it has received permission from this Office to extend its deadline to respond to July 6, 2018.

[para 4] The Public Body states that it requested another time extension from this Office in July, but this was not approved.

[para 5] On August 15, 2018, this office received the Applicant's request for a review of the Public Body's failure to respond.

II. RECORDS AT ISSUE

[para 6] 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 7] The Notice of Inquiry, dated October 1, 2018, states 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 8] Section 11 of the Act requires a public body to make every reasonable effort 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 9] In its submission, the Public Body acknowledged that it did not comply with section 11 of the Act.

[para 10] The Public Body states that it has many late files, and that it processes the requests in the order received unless court dates and Orders from this Office require

certain files to be prioritized. It states that this file is now a priority and it expects to be able to respond to the Applicant in the near future.

[para 11] The Public Body further states that it is experiencing staffing changes, and that it is taking steps to address its inability to respond to access requests within the timeframes of the Act. It states:

The Public Body fully expects the adjudicator to issue an Order directing it to respond to this request by a specific date. The Public Body respectfully requests that the above information be taken into consideration, when selecting that date.

[para 12] The Public Body must make every reasonable effort to respond to an access request in 30 days. Given the date of the Applicant's request, the expiration of the extended deadline, and the Public Body's acknowledgement that it did not comply with section 11 of the Act, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

[para 13] Regarding the Public Body's request for a date of compliance with this Order, I have addressed similar requests in Orders F2017-68, F2017-69, F2018-28 and F2018-44. The time for complying with an Order is set out in the Act as 50 days (section 74(1)). Even where a public body has valid reasons for requesting further time to comply, I cannot alter that time limit set out in the Act.

V. ORDER

[para 14] I make this Order under section 72 of the Act.

[para 15] 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 16] 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