

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2019-12

April 2, 2019

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 011114

Office URL: www.oipc.ab.ca

Summary: On September 13, 2018, the Applicant made an access request to Alberta Justice and Solicitor General (the Public Body). The Public Body acknowledged receipt of the request by letter dated September 18, 2018. 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 Public Body's failure to respond to the access request.

The Adjudicator found the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act and 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] On September 13, 2018, the Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) to Alberta Justice and Solicitor General (the Public Body).

[para 2] The Public Body acknowledged receipt of the request by letter dated September 18, 2018. It noted that the Act allowed it 30 days to respond to the request and informed the Applicant it would make every reasonable effort to respond by October 18, 2018. It stated that due to a high volume of requests, its response time may exceed the 30 day requirement.

[para 3] On December 20, 2018, this Office received the Applicant's request for a review of the Public Body's failure to respond.

[para 4] The Commissioner decided that the question of whether the Public Body had complied with statutory time limits should proceed directly to inquiry.

II. ISSUE

[para 5] The Notice for Inquiry dated March 7, 2019, states the issue for this inquiry as follows:

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

III. DISCUSSION OF ISSUE

[para 6] 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 7] In its submission for this inquiry, the Public Body acknowledged that it did not comply with section 11 of the Act.

[para 8] The Public Body advised that it had made this file a priority and was actively processing it. It advised that it expected to be able to respond to the Applicant in the near future.

[para 9] The Act requires the Public Body make every reasonable effort to respond to an access request within 30 days. Given the date the Public Body received the Applicant's access request and the Public Body's acknowledgment 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 10] Although the Public Body has advised that it expects to be able to respond to the Applicant in the near future, it has not *yet* responded. Therefore, I will order the Public Body to do so.

IV. ORDER

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

[para 12] 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 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.

Carmen Mann
Adjudicator