

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2022-52

October 28, 2022

ALBERTA HUMAN RIGHTS COMMISSION

Case File Number 027396

Office URL: www.oipc.ab.ca

Summary: On June 28, 2022, Alberta Human Rights Commission (the Public Body) received an access request from an applicant (the Applicant) under the *Freedom of Information and Protection of Privacy Act* (the Act).

On July 27, 2022, the Public Body informed the Applicant that it was extending its time to respond under section 14(1)(b) of the Act and that it would make every reasonable effort to respond to his access request by August 29, 2022.

On September 26, 2022, the Applicant requested a review by this Office, indicating that the time limit for responding to the access request under the Act had expired and the Public Body had not provided a response.

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, 14, 72 and 74.

I. BACKGROUND

[para 1] On June 28, 2022, Alberta Human Rights Commission (the Public Body) received an access request from an applicant (the Applicant) under the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 (the Act) for certain information.

[para 2] On July 26, 2022, the Public Body informed the Applicant that it would reply to his request on or before July 28, 2022.

[para 3] On July 27, 2022, the Public Body informed the Applicant that his request involved a large number of records and that it was extending the due date for responding to the Applicant by 30 days under section 14(1)(b) of the Act. It advised the Applicant that it would make every reasonable effort to respond to his access request by August 29, 2022.

[para 4] On September 26, 2022, the Applicant requested a review by this Office, indicating that the time limit for responding to the request under the Act had expired and the Public Body had not provided a response.

[para 5] The Commissioner decided to move the matter directly to inquiry and delegated her authority to conduct the inquiry to me.

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 September 30, 2022, 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 not 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] Section 14 of the Act states:

14(1) The head of a public body may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period if

- (a) the applicant does not give enough detail to enable the public body to identify a requested record,*
- (b) a large number of records are requested or must be searched and responding within the period set out in section 11 would unreasonably interfere with the operations of the public body,*
- (c) more time is needed to consult with a third party or another public body before deciding whether to grant access to a record, or*
- (d) a third party asks for a review under section 65(2) or 77(3).*

(2) The head of a public body may, with the Commissioner's permission, extend the time for responding to a request if multiple concurrent requests have been made by the same applicant or multiple concurrent requests have been made by 2 or more applicants who work for the same organization or who work in association with each other.

(3) Despite subsection (1), where the head of a public body is considering giving access to a record to which section 30 applies, the head of the public body may extend the time for responding to the request for the period of time necessary to enable the head to comply with the requirements of section 31.

(4) If the time for responding to a request is extended under subsection (1), (2) or (3), the head of the public body must tell the applicant

- (a) the reason for the extension,*
- (b) when a response can be expected, and*
- (c) that the applicant may make a complaint to the Commissioner or to an adjudicator, as the case may be, about the extension.*

[para 10] The Public Body extended the time to respond to the Applicant pursuant to section 14(1)(b). It indicated it would respond to the Applicant by August 29, 2022. It did not respond to the Applicant by this date.

[para 11] In its submission, the Public Body advised of the following steps it had taken to respond to the Applicant's access request:

On September 1, 2022, the Public Body initiated the search for records.

On September 6, 2022, the program area responded and provided and [sic] initial set of documents and asked for more time to search for policies related to the applicant's request.

On October 24, 2022, the remainder of the records were provided to the FOIP Office and were combined in to a working copy. A review of the records has commenced.

[para 12] The Public Body stated in its submission:

The Public Body acknowledges that it did not comply with section 11 of the FOIP Act and is actively working on responding to the Applicant. Any fees associated with this request will be waived.

...

The Public Body acknowledges that it is late with this file. We will redouble our efforts to conclude the processing of this request quickly.

[para 13] Given that the Public Body did not respond to the Applicant before the expiration of its extended deadline pursuant to section 14(1)(b) of the Act, and the Public Body has acknowledged that it did not comply with section 11 of the Act, I find that the Public Body failed to comply with the time limits set out in the Act.

[para 14] As the Public Body has yet to respond to the Applicant, I must order it to respond to the Applicant.

[para 15] Section 74(1) of the Act provides that subject to subsection (2), not later than 50 days after being given a copy of an order of the Commissioner, the head of a public body concerned must comply with the order.

V. ORDER

[para 16] I make this Order under section 72 of the Act.

[para 17] I find that the Public Body failed to 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 18] I further order the Public Body to notify me and the Applicant in writing, not later than 50 days after being given a copy of this Order, that it has complied with the Order.

Carmen Mann
Adjudicator