

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-06

March 1, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 002015

Office URL: www.oipc.ab.ca

Summary: On November 2, 2015, an Applicant made an access request to Alberta Justice and Solicitor General (Public Body) for records relating to a named individual. The Public Body acknowledged receipt of this request, but did not respond further, until December 9, 2015, when the Applicant followed up on his request via email. The Public Body informed the Applicant that it was late on several files, including his; it also stated that it would respond to his request as soon as possible.

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 November 2, 2015, to Alberta Justice and Solicitor General (Public Body) for records relating to a named individual. The Public Body acknowledged via email that it had received the Applicant's request on November 4, 2015; it also sent a letter to the Applicant dated November 5, 2015, which

acknowledged receipt of the request, and stated that the FOIP Act allows the Public Body 30 days to respond to the request.

[para 2] The Applicant emailed the Public Body on December 9, 2015, to follow up on his request. The Public Body responded that day, also via email, informing the Applicant that the Public Body has “received an influx of access to information requests, which have, unfortunately, resulted in a number of late files”; the email also stated that the Public Body would respond to the request as soon as possible and that all associated fees would be waived.

[para 3] On December 11, 2015, the Applicant requested a review by this Office of the Public Body’s response. In order to ensure a timely response to the access request, the Applicant’s request for review proceeded directly to inquiry.

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 1, 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.

[para 8] The Public Body stated that it “has numerous late files and, in order to be fair to all its applicants, it has been processing them in the order in which they were received.” It also stated 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 9] 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 10] I make this Order under section 72 of the Act.

[para 11] 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 12] 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