

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2017-71

September 5, 2017

EXECUTIVE COUNCIL

Case File Number 006051

Office URL: www.oipc.ab.ca

Summary: On August 2, 2016, the Wildrose Party (the Applicant) made an access request under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Executive Council (the Public Body) for all memos written by various officials between May 5, 2015 and August 2, 2016.

The Public Body wrote the Applicant on August 4, 2016 to acknowledge receipt of his access request.

The Public Body did not respond to the Applicant. On June 9, 2017, the Applicant requested that the Commissioner review the Public Body's failure to respond to its access request.

At the inquiry, the Public Body acknowledged that it had not complied with its duty under section 11 (time limit for responding).

The Adjudicator ordered the Public Body to comply with its remaining duties in relation to section 11.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14, 72

I. BACKGROUND

[para 1] On August 2, 2016, the Applicant, the Wildrose Party, made a request for access to Executive Council (the Public Body) for the following kinds of records:

I request all memos signed by any of the following people:

[...]

Please note that duplicates may be excluded, as can drafts. In addition, emails may be restricted to final strings where the final string shows the entirety of the conversation.

I also request all records related to this request to be provided electronically, whether email or digital media, including the final record and correspondence.

[para 2] The Applicant explained that it was seeking records created between May 5, 2015 and August 2, 2016, the date the Public Body received the access request.

[para 3] On August 4, 2016, the Public Body confirmed receipt of the Applicant's access request. It indicated that it had received the Applicant's payment and that processing was underway.

[para 4] On February 23, 2017 the Public Body informed the Applicant that a preliminary review of its access request had been completed and that

[...] extensive consultations with other parties may be required before we can fully process your request. This consultation is necessary for us to deal completely with the records that are the subject of your request.

The Public Body concluded by stating that it was extending the time for responding by 30 days pursuant to section 14(1)(c) of the FOIP Act.

[para 5] On June 9, 2017 the Applicant requested review by the Commissioner of the Public Body's lack of response to its access request.

II. ISSUE

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

[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 submissions for the inquiry, the Public Body acknowledged that it had not complied with section 11 of the FOIP Act:

The delay in processing the response can be attributed to the ministry's influx of FOIP requests, large volume of records, the internal and public body consultation requirements, and the staff turnover within this timeframe.

The Public Body attributes its delay in responding to the Applicant to the number of access requests it receives, internal and public body consultation, and staff turnover.

[para 8] I find the Public Body has failed to meet its obligations under section 11 of the FOIP Act. As a result, I must order it to respond to the Applicant.

III. 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 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 it.

Teresa Cunningham
Adjudicator