

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2019-13**

April 3, 2019

**SERVICE ALBERTA**

Case File Number 011205

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** An Applicant made an access request to Service Alberta (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act) on August 15, 2018. The Public Body sent an acknowledgement of the request on August 22, 2018.

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

The Adjudicator found that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

**Statutes Cited: AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14, 30, 31, 72.

**I. BACKGROUND**

[para 1] An Applicant made an access request to Service Alberta (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act) on August 15, 2018. The Public Body sent an acknowledgement of the request on August 22, 2018.

[para 2] By letter dated September 17, 2018, the Public Body advised the Applicant that it was extending its time to respond by 30 days, under section 14(1)(b) of the Act; the new deadline for responding was stated to be October 15, 2018.

[para 3] By letter dated February 22, 2019, the Public Body informed the Applicant that it was notifying parties whose information was contained in responsive records, as required under section 30 of the Act. Not all responsive records required this third party consultation.

[para 4] On March 25, 2019, the Public Body provided the Applicant with 208 pages of responsive records and a video disk, with some information withheld. These responsive records were not affected by the section 30 consultation.

[para 5] By letter also dated March 25, 2019, the Public Body notified the Applicant that it had made a decision regarding access to the records that were subject to the third party consultation. The Public Body informed the Applicant that the third parties have 20 days to object to the Public Body's decision; if no objection was received, the responsive records would be provided on April 15, 2019.

## **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 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)?

## **IV. DISCUSSION OF ISSUE**

[para 8] 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 concedes that it did not meet its obligation to make every reasonable effort to respond within the timelines provided in section 11 of the Act.

[para 10] Given the Public Body's acknowledgement and the dates associated with the request, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act. It follows from this finding that I will order the Public Body to respond in accordance with the Act.

[para 11] In this case, the Public Body informed the Applicant that it decided to provide partial access to the remaining records at issue, which involve third party information. Before these records can be provided to the Applicant, section 31(3) of the Act requires the Public Body to give the third parties 20 days to request a review by this Office of the Public Body's decision to grant partial access. The Public Body has informed the Applicant that the records will be provided on April 15, 2019, if a request for review is not made. This date falls well within the time to comply with this order.

[para 12] If a third party requests a review, the Public Body cannot disclose records that are the subject of the review, pending the outcome of that review.

## **V. ORDER**

[para 13] I make this Order under section 72 of the Act.

[para 14] 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 15] 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.

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Amanda Swanek  
Adjudicator