

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER ATIA2026-TEI-02

February 2, 2026

Assisted Living and Social Services

Case File Number 040777

Office URL: www.oipc.ab.ca

Summary: Assisted Living and Social Services (the Public Body) made decisions to extend the timelines for responding to the Applicant’s access request by a total of 100 business days under sections 16(1)(b), 16(1)(c) and 16(2) of the *Access to Information Act* (ATIA). The Adjudicator found that the Public Body did not properly extend its timelines as required by ATIA.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25; *Access to Information Act*, S.A. 2024, c. A-1.4; *Protection of Privacy Act*, S.A. 2024, c. P-28.5; *Interpretation Act*, RSA 2000.

Authorities Cited: **AB:** Orders ATIA2025-01, ATIA2026-TEI-01

I. BACKGROUND

[para 1] On July 30, 2025, Assisted Living and Social Services (the Public Body) received a request for access to information from the Applicant under the *Access to Information Act* (ATIA).

[para 2] The day after the Public Body received the access request, on July 31, 2025, the Public Body extended its initial timeline for responding to the request by 30 business days under ATIA section 16(1)(b). The Public Body did not issue an extension letter to the Applicant to notify them of the 16(1)(b) extension it took on July 31, 2025, as required by section 16(5) of ATIA.

[para 3] Since the Applicant did not receive a response or a notification of an extension of timelines within 30 business days permitted under ATIA to respond to an access request, a request for review was submitted to the Office of the Information and Privacy Commissioner (OIPC), which resulted in related Order ATIA2025-01. In that order, the Adjudicator found the Public Body did not properly extend time under section 16 and, for that reason, did not comply with the time limit for responding to access requests under ATIA. Therefore, the Public Body was deemed to have refused access to the requested records, and the Adjudicator ordered the Public Body to respond to the access request as required by ATIA.

[para 4] While the inquiry into that matter was in progress, on October 21, 2025, the Public Body contacted the Applicant to inform them it took a further extension of 70 business days under section 16(2), specifically for 16(1)(b) and section 16(1)(c).

[para 5] On November 3, 2025, the Applicant submitted a request for review to the OIPC, objecting to the extension of timelines taken by the Public Body to process the access request. The second extension is the subject of this inquiry. The matter proceeded directly to inquiry without mediation or investigation as is the OIPC's practice under ATIA when reviewing a public body's decision to extend time where a response has not yet been provided to an applicant.

II. ISSUE

1. Did the head of the Public Body properly extend the time for responding to the request as permitted by section 16 of the Act (ATIA)?

III. DISCUSSION OF ISSUE

Preliminary Issue – Delegation of Authority

[para 6] Section 16 of ATIA authorizes the head of a public body to extend the time for responding to an access request. Upon reviewing supporting documents provided by the Public Body, it was confirmed that the section 16 decision was not made by the head of the Public Body, but by the Access to Information Coordinator. As the section 16 decision was not made by the head, I had to confirm the decision maker had been properly delegated the authority to make the decision.

[para 7] Initially, the Public Body made a request to submit *in camera* Ministerial Order 2023-010 (the MO), which outlined their delegations under the repealed *Freedom of Information and Protection of Privacy Act* (FOIP). The Public Body did not adequately explain or provide any authority on why the MO fit the criteria for an *in camera* submission, other than it was not publicly available and must remain confidential. This is inconsistent with principles of natural justice and procedural fairness. An individual who has requested a review of a public body's decision under ATIA is entitled to know that the decision maker had statutory authority to make

the decision under review. Since the Public Body did not provide sufficient information to support its request, I refused to accept the MO *in camera*. The Public Body subsequently shared the MO with the Applicant.

[para 8] As requested, the Public Body also subsequently provided information on how its delegations outlined under FOIP apply to ATIA.

[para 9] Section 87 of ATIA states:

87(1) The head of a public body may delegate to any person any power, duty or function of the head under this Act, except the power to delegate under this section.

(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the head of the public body considers appropriate.

[para 10] The Public Body relied on sections of the *Interpretation Act*, which sets out rules for interpreting legislation that apply to Alberta Acts and regulations, including who can act under legislation when a piece of legislation is repealed and replaced. It appeared the Public Body mistakenly quoted section 26 of the *Interpretation Act* (which refers to “Use of Words and Forms”). From additional context in the Public Body’s submission on this matter, such as their statement that the “delegation remains until such time that it is terminated, revoked, rescinded, or expires” demonstrates that it meant to refer to section 20(6) of the *Interpretation Act*. The Public Body also relied on section 36 of the *Interpretation Act* in its submission.

[para 11] Sections 20(6)(a) and 20(6)(b)(ii) and (iii) of the *Interpretation Act* state:

20(6) Unless otherwise expressed in an enactment, if

(a) a delegation, including any appointment made or authority given that is in the nature of a delegation, is made or otherwise given to a person by or under the authority of an enactment, and

(b) while that delegation is in effect,

...

(ii) the name or designation of the office or position of the person to whom the delegation was made or otherwise given has changed but the functions, duties and undertakings of the office or position remain the same or substantially the same as they were at the time that the delegation was made or otherwise given, or

(iii) the authority under which the delegation was made or otherwise given has changed in some manner but the authority to make or otherwise give the delegation remains substantially the same as it was at the time that the delegation was made or otherwise given,

that delegation remains in effect until the delegation is terminated, revoked or rescinded or expires.

[para 12] Section 36(1)(a) of the *Interpretation Act* states:

36(1) If an enactment is repealed and a new enactment is substituted for it,

(a) every person acting under the repealed enactment shall continue to act as if appointed or elected under the new enactment until the person is reappointed or another is appointed or elected in the person's place;

[para 13] The Public Body stated the second decision to extend the time for responding to the access request was made by their Access to Information Coordinator who has the delegated authority to make extension decisions under the repealed FOIP Act as outlined in the MO. It asserts that “although the references in the delegation may be outdated, the delegation is still in effect and continues to govern decision-making authority under ATIA” and that the “authority to extend time under section 16 of ATIA is substantially similar to the authority under FOIP, causing the delegation to remain in effect.”

[para 14] As the FOIP delegations in the MO remained in effect at the time of the second extension, I agree that pursuant to sections 20 and 36 of the *Interpretation Act*, the FOIP delegations continue to apply under ATIA. This is also consistent with my finding in Order ATIA2026-TEI-01 (at paras 16-18). Therefore, I find that the Access to Information Coordinator had the proper delegated authority to issue the time extension decision under ATIA that is being reviewed in this inquiry.

[para 15] While I agree that the FOIP delegations set out in the MO remain in effect, given the passage of time and the new legislation (ATIA and the *Protection of Privacy Act* (POPA)), which have similar but not identical powers, duties and functions, the Public Body may consider updating its written delegations to be consistent with current legislation.

[para 16] Having dealt with the preliminary issue outlined above, I can now address the issue that is before me in this inquiry as stated in the Notice of Inquiry dated November 4, 2025.

Issue: Did the head of the Public Body properly extend the time for responding to a request as permitted by section 16 of the Act (ATIA)?

[para 17] The FOIP Act was repealed on June 11, 2025 and split and replaced by two similar Acts: ATIA, which generally deals with access to information rights and POPA, which generally deals with privacy rights, that is, the collection, use and disclosure of personal information by public bodies. Since this matter concerns a decision to extend timelines to respond to an access request, the applicable legislation is ATIA. POPA does not bear on this matter.

[para 18] The changes in calculation of time between FOIP and ATIA, as well as differences in circumstances for time extensions that may be taken by public bodies to process access requests, were outlined in Order ATIA2026-TEI-01.¹

[para 19] The head of a public body's authority to extend the time for responding to a request for up to 30 business days is set out in section 16 of ATIA, which states:

16(1) The head of a public body may extend the time for responding to a request for up to 30 business days if

- (a) the applicant agrees,*
- (b) a large number of records are requested and more time is required to process the request, or*
- (c) more time is needed to consult with a third party, another public body or another entity before deciding whether to grant access to a record.*

(2) The head of a public body may extend the time for responding to a request for additional reasonable periods in a circumstance described in subsection (1)(a) to (c).

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

(4) Where the head of a public body is considering giving access to a record that may contain information

- (a) described in section 19(1) or (2), or*
- (b) the disclosure of which may be an unreasonable invasion of a third party's personal privacy under section 20, the head of a public body may extend the time for responding to a request or part of a request for the period of*

¹ Order ATIA2026-TEI-01 paras 21, 24-28

time necessary to enable the head to comply with the requirements of section 36.

(5) If the time for responding to a request is extended under subsection (1), (2), (3) or (4), 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 request a review of the extension by the Commissioner.*

(6) Notwithstanding anything to the contrary in subsection (5), if the time for responding to a request is extended under subsection (1), (2), (3) or (4) by the Commissioner, acting as the head of a public body, the Commissioner must tell the applicant that the applicant may seek a review by an independent adjudicator with respect to the extension.

(7) Where a third party asks for a review under section 58(2) or 79(3), the time for responding to a request or part of a request is automatically extended with respect to a record or part of a record that is the subject of the request for review until the review and inquiry process has concluded.

(8) If the time for responding to a request or part of a request is automatically extended under subsection (7), the public body must notify the applicant of the extension and the basis for the extension.

(9) The time for responding to a request is automatically extended during an emergency, disaster or other unforeseen event that results in an unplanned operational closure or interruption.

(10) If the time for responding to a request is automatically extended under subsection (9), the public body must

- (a) notify the Commissioner as soon as practicable*
 - (i) of the emergency, disaster or other unforeseen event and the anticipated end to the unplanned operational closure or interruption, and*
 - (ii) of the date when the emergency, disaster or other unforeseen event has ended or when normal operations have resumed,*
- and*
- (b) notify the applicant as soon as practicable*
 - (i) when normal operations have resumed,*

(ii) when a response to the applicant's request may be expected, and

(iii) that the applicant may request a review of the extension by the Commissioner.

[para 20] In Order ATIA2025-01, the Adjudicator noted that the Public Body granted itself the first time extension under section 16(1)(b) the next business day after it had received the access request. It appeared that due to the "broad scope" of the request and the need to search records across "multiple program areas", the Public Body concluded that an extension was justified under section 16(1)(b). However, the Public Body did not explain how those factors amounted to their position that a large number of records were involved with the access request. The Adjudicator held there may have been a very few records retrieved from the program areas and some may not even engage any responsive records.

[para 21] Therefore, the timing of the Public Body's decision to grant itself its first time extension raised a concern. There are two parts to section 16(1)(b). A public body must demonstrate, first, that the access request involves a large number of records and, second, that more time is required to process the request.

[para 22] As the Adjudicator in ATIA 2025-01 stated:

[para 21] Section 16(1)(b) only applies where a large number of records are engaged; its wording is specific to those circumstances. In order to show that it has properly granted itself an extension under section 16(1)(b), the Public Body must have some evidence that it had at least a reasonable grasp of the number of records subject to an access request, or had made reasonable efforts to conclude that the access request constituted a request for a large number of records in order to extend its response time under that section. That a public body must make such a determination prior to extending its deadline to respond to an access request is clear from the provisions of section 16(5).

...

[para 27] The Public Body granted itself the extension on July 31, 2025, the day after it received the access request. The Public Body does not mention that its efforts to gathering records had even begun on July 31, 2025, and in any case it did not complete its search until September 3, 2025. The Public Body explains that even as of August 18, 2025 the Advisor noted that the person responsible for gathering the records had informed her that some staff who may have responsive records were unavailable until August 26, 2025. Under the circumstances, it would have been a remarkable feat for the Public Body, which is now arguing that it needs more time to respond to respond to the access request, to have made a reasonable determination that so many records were engaged at the time when it granted itself an extension.

[para 23] Since a public body must determine it has proper grounds to extend time before taking an extension, I agree with the Adjudicator in Order ATIA2025-01 that the Public Body

granted itself an extension under 16(1)(b) before it had a proper basis to do so. As the Public Body did not properly extend time under section 16(1)(b) with its first time extension, the Adjudicator in Order ATIA2025-01 held the Public Body was deemed to have refused access to the records pursuant to section 13(2) (time limit for responding).

[para 24] Similar reasoning applies to the Public Body's second time extension taken on October 21, 2025. For the reasons provided in Order ATIA2025-01, by October 21, 2025, the Public Body had already not properly extended its time to respond to this access request under section 16(1)(b). Therefore, pursuant to section 13(2), when it took its second time extension under 16(2), the Public Body was already deemed to have refused access to the requested records. Where a Public Body is deemed to have made a decision to refuse access to a record, it cannot extend its time further under section 16(2). I find the Public Body improperly extended time under section 16(2).

IV. ORDER

[para 25] I make this Order under section 64 of ATIA.

[para 26] The Public Body has already been ordered to respond to the access request as required by ATIA in Order ATIA2025-01 and there is nothing left for me to order.

Anima Kotowski
Adjudicator - Expedited Inquiries