



Order F25-36

NORTHERN HEALTH AUTHORITY

Elizabeth Vranjkovic
Adjudicator

May 21, 2025

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Summary: An applicant submitted three requests for records to the Northern Health Authority (Northern Health) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). Northern Health acknowledged it did not respond to the applicant's access requests within the timeline required by s. 7 of FIPPA. The adjudicator found Northern Health had not fulfilled its duty under s. 7 of the Act and ordered it to respond to the applicant's access requests by a specified date.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, [RSBC 1996] c. 165, s. 7.

INTRODUCTION

[1] This inquiry is about whether the Northern Health Authority (Northern Health) complied with its duty to respond to the applicant's access requests within the required time limit in s. 7 of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] The applicant made three requests to Northern Health for access to records. The applicant did not receive responses to any of those requests, so they complained to the Office of the Information and Privacy Commissioner (OIPC) that Northern Health had failed to respond to their requests within the timelines set out in FIPPA. Northern Health acknowledges that it failed to respond to the applicant's access requests in accordance with the statutory time limits imposed by s. 7 of FIPPA.¹ As of the date of the inquiry, Northern Health still had not responded to the access requests.

¹ From this point forward, whenever I refer to section numbers I am referring to sections of FIPPA.

Preliminary matter - issues outside the scope of the inquiry

[3] In their response submission, the applicant raises issues that were not included in the notice of written inquiry (notice). For example, the applicant makes submissions and seeks relief regarding Northern Health's proactive disclosure obligations. The applicant also raises concerns about Northern Health's conduct in relation to other access requests which are not before me in this inquiry.

[4] I decline to consider any new issues. The notice clearly sets out the issues for the inquiry. The applicant did not seek permission to add any new issues and I am not satisfied that it would be fair to add any of those new issues now. As a result, I decline to add any of the new issues raised by the respondent to this inquiry. I have focused my discussion below only on the evidence and submissions relevant to deciding the s. 7 issue.

ISSUES

[5] The issues to be decided in this inquiry are:

1. Did Northern Health comply with its duty to respond to the applicant's requests within the timelines in s. 7?
2. If Northern Health did not comply with its duty under s. 7, what is the appropriate remedy?

BURDEN OF PROOF

[6] Northern Health acknowledges it did not respond to the applicant's requests within the time requirements of FIPPA. Section 53(3) says that a public body's failure to respond in time to a request for access to a record is to be treated as a decision to refuse access to the record.

[7] Section 57(1) says that at an inquiry into a decision to refuse an applicant access to all or part of a record, it is up to the head of the public body to prove that the applicant has no right of access to the records or part. Therefore, I find that Northern Health has the burden to prove that it met its duty to respond to the applicant's access requests as required by s. 7.²

² This determination is consistent with past orders. See for example Order F25-08, 2025 BCIPC 8 and Order F25-09, 2025 BCIPC 9.

DISCUSSION

Did Northern Health comply with its duty to respond to the access requests within the timelines in s. 7?

[8] The relevant parts of s. 7 are as follows:

7(1) Subject to this section and sections 23 and 24(1), the head of a public body must respond not later than 30 days after receiving a request described in section 5(1).

(2) The head of the public body is not required to comply with subsection (1) if

(a) the time limit is extended under section 10, or

(b) the request has been transferred under section 11 to another public body.

[9] Schedule 1 of FIPPA says that “day” does not include a holiday or a Saturday. Under the *Interpretation Act*, a “holiday” includes, among other things, a Sunday.³

[10] There is no dispute between the parties that the applicant filed one access request on January 9, 2025 and filed the other access requests on January 15, 2025. Northern Health does not argue that the 30-day deadline in s. 7(1) was extended or suspended under the provisions of ss. 7 and 10, or that the request was transferred under s. 11.

[11] I can see that the applicant made the January 9, 2025 access request by email at 7:32pm. The OIPC generally takes the position that access requests that are emailed to a public body during normal business hours are considered to be received that day and access requests emailed anytime after business hours are considered to be received the next day. As a result, I find that Northern Health received the January 9, 2025 access request on January 10, 2025.

[12] Considering all of the above, I find that Northern Health was required to respond to the January 9, 2025 access request by February 24, 2025 and was required to respond to the January 15, 2025 access requests by February 27, 2025.

³ RSBC 1996, c 238, s. 29. The parties refer to “business days” in their submissions. Under the definitions in FIPPA and the *Interpretation Act*, a “day” refers to what is commonly known as a business day. As a result, I refer only to “days” in this order.

[13] Northern Health concedes that it did not respond to the applicant in accordance with s. 7(1).⁴

[14] I find that Northern Health failed to comply with its duty under s. 7(1) to respond to the applicant's access requests by no later than 30 days after receiving them.

What is the appropriate remedy?

[15] Section 58(1) states that the commissioner must dispose of the issues in an inquiry by making an order under s. 58. The usual remedy in such cases is to order the public body, under s. 58(3)(a), to respond to the access requests by a particular date.⁵

[16] The applicant and Northern Health both seek such an order but disagree on what date is appropriate. The applicant also seeks relief that departs from the usual remedy, which I will discuss below.

[17] I find ordering Northern Health to respond to the access requests as required under Part 2 of FIPPA, and to do so by a specific date, is an appropriate remedy. The question is what date is appropriate.

[18] The applicant says 15 days from the date of this order is an appropriate deadline.⁶

[19] Northern Health says it is not "practically feasible" to respond by the applicant's proposed deadline. Instead, Northern Health says June 20, 2025 is an appropriate deadline.⁷ In support of its estimate, Northern Health provides affidavit evidence from its Executive Director, Enterprise Risk & Compliance and Chief Privacy Officer (Chief Privacy Officer), who says that for each of the access requests:

- She expects to have the results of automated searches for any responsive records that are in email format by May 9, 2025.
- For two of the access requests, she has issued a call for records to specific individuals. For the other access request, she will "imminently" be issuing a call for records to specific individuals.

⁴ Public body's initial submissions at para 1.

⁵ For examples, Order F16-29, 2016 BCIPC 31 at paras 8-11; Order F24-90, 2024 BCIPC 103 at paras 141-16; and Order F23-59, 2023 BCIPC 69 at para 31.

⁶ Applicant's first response submission at page 13, second response submission at page 13, and third response submission at page 12.

⁷ Public body's first reply submission at paras 21 and 23, second reply submission at paras 23 and 25, and third reply submission at paras 24 and 26.

- Northern Health has contracted with a consulting company to process the access requests.
- As she receives batches of responsive records, she is delivering them to the consulting company.
- The consulting company will use software to prepare the records for review (for example, de-duplicating and ordering records by date). The consulting company estimates this will take a maximum of six hours.
- The consulting company will then conduct a line-by-line review of the records. It estimates that, “based on the scope of the request and the types of records involved,” this will take approximately 30 days.
- After the consulting company’s review, she will review and approve the records within two days.
- She will provide the records to the applicant on the day she approves them or the next day.

[20] I accept Northern Health’s evidence that once the consulting company has all of the responsive records for a given access request, it will require six hours to prepare them for a line-by-line review. However, Northern Health does not adequately explain why a line-by-line review of those responsive records will take 30 days. In the absence of further explanation, I am not persuaded that Northern Health should be given 30 days to conduct a line-by-line review of the records.

[21] I find that the applicant’s proposed deadline of 15 days from the date of this order is an appropriate remedy. In my view, this timeline takes into account the length of time the applicant has already been waiting for a response to their access requests while still allowing Northern Health time to properly review and process the requested records. I require Northern Health to provide the applicant with a response to each of their access requests, in accordance with Part 2 of FIPPA by **June 11, 2025**.

Additional relief sought by the applicant

[22] The applicant also seeks the following remedies:

- An order requiring Northern Health to provide all responsive records in both electronic and paper formats;⁸
- A finding that Northern Health cannot assess any fees in this matter;⁹
- A written order addressing the applicant’s concerns about Northern Health’s affidavit evidence;¹⁰ and

⁸ Applicant’s first response submission at page 14, second response submission at page 14, and third response submission at pages 12-13.

⁹ Applicant’s first response submission at page 14, second response submission at page 14, and third response submission at page 13.

¹⁰ Applicant’s first response submission at page 14.

- Public orders reinforcing the importance of compliance with statutory obligations and timelines.¹¹

[23] Northern Health says that it should only have to provide the responsive records in either paper or electronic format, not both.¹² Northern Health also says that it has not issued a fee estimate to the applicant for the access requests and it has never intended to do so.¹³ Finally, Northern Health says that the applicant's allegations about its conduct are baseless and inappropriate.¹⁴

[24] In my view, the additional relief the applicant seeks is not necessary or appropriate in the circumstances.

[25] First, it seems to me that there is no live issue between the parties about a fee estimate, so it is not necessary for me to make any order about fees.¹⁵

[26] Second, in the absence of an explanation from the applicant about why they seek paper and electronic disclosure, I do not think it is appropriate for me to make an order requiring disclosure in both paper and electronic formats. Having said that, this does not prevent Northern Health from choosing to provide the responsive records in both formats.

[27] Third, I have already considered the applicant's concerns about the public body's affidavit evidence in making this order. I do not find it necessary or appropriate to issue a "written order" openly addressing those concerns.

[28] Finally, I do not find it appropriate to reiterate Northern Health's obligations and the importance of those obligations. My role in this inquiry is to determine the issues set out in the notice of inquiry, not to reiterate Northern Health's obligations on a variety of matters at the applicant's request.

CONCLUSION

[29] For the reasons given above, under s. 58(3)(a), I order Northern Health to perform its duty under s. 7 by responding to each of the applicant's access requests in accordance with Part 2 of FIPPA on or before **June 11, 2025**.

¹¹ Applicant's first response submission at page 14, second response submission at pages 14-15 and third response submission at page 13.

¹² Public body's first reply submission at para 30, second reply submission at para 32, and third reply submission at para 33.

¹³ Chief Privacy Officer's affidavits at para 7.

¹⁴ Public body's first reply submission at para 16, second reply submission at para 18, and third reply submission at para 19.

¹⁵ In any event, a fee waiver is not listed as an issue in the notice.

[30] Under s. 58(4), I order Northern Health to copy the OIPC's registrar of inquiries on the responses Northern Health sends to the applicant in compliance with paragraph 29 above.

May 21, 2025

ORIGINAL SIGNED BY

Elizabeth Vranjkovic, Adjudicator

OIPC File No.: F25-00393, F25-00394, F25-00773