



Order F25-37

NORTHERN HEALTH AUTHORITY

Elizabeth Vranjkovic
Adjudicator

May 21, 2025

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Summary: An applicant requested records from 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 request 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 request 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 request within the required time limit in s. 7 of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] On January 9, 2025, the applicant made an access request to Northern Health. The applicant did not receive a response to their request, so they complained to the Office of the Information and Privacy Commissioner (OIPC) that Northern Health had failed to respond to their request within the timelines set out in FIPPA. Northern Health acknowledges that it failed to respond to the applicant's access request in accordance with the statutory time limits imposed by s. 7 of FIPPA¹. As of the date of the inquiry, Northern Health still had not responded to the access request.

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

ISSUES

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

1. Did Northern Health comply with its duty to respond to the applicant's request 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

[4] Northern Health acknowledges it did not respond to the applicant's request 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.

[5] 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 request as required by s. 7.²

DISCUSSION

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

[6] 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.

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

[7] 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

[8] There is no dispute between the parties that the applicant filed the access request on January 9, 2025. The applicant says that Northern Health was required to respond by February 24, 2025.⁴ 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.

[9] I can see that the applicant made the access request by email at 8:36pm. 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.⁵ As a result, I find that Northern Health received the access request on January 10, 2025 and was required under s. 7(1) to respond to the access request by February 24, 2025.

[10] Northern Health concedes that it did not respond to the applicant in accordance with s. 7(1).⁶

[11] Considering all of the above, I find that Northern Health failed to comply with its duty under s. 7(1) to respond to the applicant’s access request by no later than 30 days after receiving it.

What is the appropriate remedy?

[12] 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 request by a particular date.⁷

[13] 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.

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.

⁴ Applicant’s response submission at pages 3-4.

⁵ Order F20-34, 2020 BCIPC 40 at paras 34-37.

⁶ Public body’s initial submission.

⁷ 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.

[14] I find ordering Northern Health to respond to the access request 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.

[15] The applicant says that an appropriate deadline is 15 days from the date of this order.⁸

[16] Northern Health says that it is not “practically feasible” to respond by the applicant’s proposed deadline.⁹ Instead, Northern Health estimates that it can respond to the applicant on or before June 20, 2025.¹⁰ In support of its estimate, Northern Health provides affidavit evidence from its Executive Director, Enterprise Risk & Compliance and Chief Privacy Officer, who says:

- She expects to have the results of automated searches for any responsive records that are in email format by May 9, 2025.
- She will be “imminently” issuing a call for records to specific individuals.
- Northern Health has contracted with a consulting company to process the access request.
- 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 line-by-line 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.

[17] I accept Northern Health’s evidence that once the consulting company has all of the responsive records, 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.

[18] 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

⁸ Applicant’s response submission at page 15.

⁹ Public body’s reply submission at para 21.

¹⁰ Affidavit of Northern Health’s Executive Director, Enterprise Risk & Compliance and Chief Privacy Officer (Chief Privacy Officer) at para 25.

access request 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 their access request, in accordance with Part 2 of FIPPA by **June 11, 2025**.

Additional relief sought by the applicant

[19] The applicant also seeks the following remedies:

- A finding that Northern Health cannot assess any fees in this matter;
- An order requiring Northern Health to provide all responsive records in both electronic and paper formats; and
- An order reaffirming the procedural responsibilities of public bodies under FIPPA, “particularly when responding to access requests submitted by or on behalf of legal representatives of vulnerable persons in regulated care settings.”¹¹

[20] Northern Health says that it should only have to provide the responsive records in either paper or electronic format, not both.¹²

[21] Northern Health also says that it has not issued a fee estimate to the applicant for this access request and “it has never intended to do so.”¹³

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

[23] 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.¹⁴

[24] Second, in the absence of an explanation from the applicant about why they seek disclosure in both paper and electronic form, 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.

[25] Finally, I do not find it appropriate to “reaffirm the procedural responsibilities of public bodies under FIPPA.” My role in this inquiry is to determine the issues set out in the notice of inquiry, not to reaffirm public bodies’ procedural responsibilities at the request of the applicant.

¹¹ Applicant’s response submission at pages 14-16.

¹² Public body’s reply submission at para 32.

¹³ Chief Privacy Officer’s affidavit at para 7.

¹⁴ In any event, a fee waiver is not listed as an issue in the notice.

CONCLUSION

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

[27] Under s. 58(4), I order Northern Health to copy the OIPC's registrar of inquiries on the response Northern Health sends to the applicant in compliance with paragraph 26 above.

May 21, 2025

ORIGINAL SIGNED BY

Elizabeth Vranjkovic, Adjudicator

OIPC File No.: F25-00772