



Order F25-57

MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT

Alexander Corley
Adjudicator

July 22, 2025

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Summary: An applicant requested records from the Ministry of Children and Family Development (Ministry) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). The Ministry acknowledged that it did not respond to the applicant's request within the timeline required by s. 7 of FIPPA. The adjudicator found the Ministry had not fulfilled its duty under s. 7 of FIPPA 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] at ss. 7, 10(1)(b), and 10(2)(a); *Interpretation Act* [RSBC 1996, c. 238] at s. 9.

INTRODUCTION

[1] This inquiry is about whether the Ministry of Children and Family Development (Ministry) complied with its duty to respond to the applicant's access request within the time limit required by s. 7 (time limit for responding) of the *Freedom of information and Protection of Privacy Act* (FIPPA).¹

[2] On June 27, 2024, the applicant requested the Ministry provide access to all records containing information about the applicant across a period of approximately 18 years. On July 5, 2024, the Ministry acknowledged receiving the request and indicated to the applicant that it would make every effort to respond to the request by August 12, 2024. The Ministry took several time extensions under ss. 10(1)(b) (extension due to number of records) and 10(2)(a) (extension authorized by the Commissioner) such that its deadline to respond to the access request was eventually set as January 15, 2025.

¹ RSBC 1996, c 165. Through the remainder of this order when I refer to sections of an enactment I am referring to FIPPA unless otherwise stated.

[3] By April 1, 2025, the applicant had still not received a response and requested an update from the Ministry. The Ministry advised the applicant at that time that their request was sitting in a queue and the Ministry was unsure when it would be able to respond to it.

[4] Based on this, the applicant contacted the Office of the Information and Privacy Commissioner (OIPC) on June 5, 2025, to request a review of the Ministry's failure to respond in time to the access request. As of the date of this inquiry, the Ministry has still not responded to the applicant's access request. The Ministry admits that it has failed to respond to the access request within the timelines legislated by s. 7.²

ISSUES AND BURDEN OF PROOF

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

1. Did the Ministry comply with its duty to respond to the applicant's access request within the timelines set out in s. 7?
2. If not, what is the appropriate remedy?

[6] 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 public body to prove the applicant has no right of access to the record or part. Under s. 53(3), a public body's failure to respond in time to an access request is deemed to be a decision by the public body to refuse access to the requested records.

[7] As the Ministry acknowledges it has failed to respond to the access request within the required timeline, s. 53(3) deems the Ministry to have decided to refuse the applicant access to the requested records. Therefore, under s. 57(1), I find the Ministry bears the burden of proof regarding the issues set out above.

DISCUSSION

Did the Ministry fail to respond as required by s. 7?

[8] The relevant parts of s. 7 read 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 s. 5(1).

² Ministry's Initial Submission at para. 14.

(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] Under Schedule 1, a “day” does not include a holiday or a Saturday and under the *Interpretation Act*, a “holiday” includes, among other things, a Sunday.³

[10] As noted above, there is no disagreement between the parties that the Ministry has failed to comply with s. 7. The basic chronology of events is also agreed between the parties and I set it out here for clarity:

1. On June 27, 2024, the applicant submitted an access request to the Ministry that was compliant with s. 5(1);
2. On July 3, 2024, the Ministry contacted the applicant seeking clarification on which records were being requested;
3. On July 5, 2024, the applicant responded to the Ministry’s request for clarification;
4. On August 8, 2024, the Ministry advised the applicant that it was extending the deadline for responding to the access request by 30 days under s. 10(1)(b) from August 12, 2024, to September 24, 2024;
5. On September 20, 2024, the Ministry advised the applicant that it had received authorization from the OIPC under s. 10(2)(a) to further extend the deadline for responding by 75 days to January 15, 2025;⁴
6. As of the date of this inquiry, the Ministry has not responded to the access request.

[11] It is clear to me that the Ministry did not seek authorization to extend the deadline for responding to the applicant’s access request beyond January 15, 2025. As such, the Ministry was required to respond to the access request by that date. It is also clear to me that the Ministry did not do so. Therefore, I conclude that the Ministry has clearly not responded to the access request within the time limit set out in s. 7 and continues to stand in breach of s. 7 at this time.

Appropriate remedy

[12] Section 58(1) says the Commissioner must dispose of the issues in an inquiry by making an order under s. 58. The usual remedy where a public body is

³ RSBC 1996, c 238 at s. 9.

⁴ The Ministry does not include copies of its alleged communications with the OIPC as part of its submissions but given the applicant does not challenge this aspect of the Ministry’s evidence, I take the Ministry at its word that the extension to January 15, 2025, was legitimately authorized by the Commissioner under s. 10(2)(a).

found to stand in breach of s. 7 is to order the public body, under s. 58(3)(a), to respond to the access request by a particular date.⁵

[13] The applicant and the Ministry each seek an order to that effect but disagree on the appropriate date for the Ministry to respond. Given the parties' agreement regarding the kind of remedy appropriate in this case, I accept that this matter is best disposed of by requiring the Ministry to respond to the access request in the form required by Part 2 of FIPPA by a specific date. The question is what date is appropriate in this case.

[14] The Ministry says that the appropriate date is August 22, 2025. In support of this submission, the Ministry provides an affidavit from a Team Lead on the relevant freedom of information (FOI) team.⁶ In their affidavit, the Team Lead says the following in support of the Ministry's position that August 22, 2025, is the appropriate date for it to respond to the access request:

1. The records responsive to the applicant's access request total 4012 pages and span 21 years.⁷
2. The FOI team received the responsive records from the Ministry on July 25, 2024, and completed tagging, scanning, and uploading those records into its systems on June 20, 2025.
3. The FOI team is seriously overburdened given the volume of requests it must process, the size of those requests, and the complexity of those requests and these complicating factors have been increasing over recent time. All of this has led to a significant backlog of access requests requiring the FOI team's care and attention.
4. The applicant's request was assigned to a specific FOI team member on June 19, 2025, and that team member's other files were reassigned to increase the time the team member could spend processing the applicant's request.
5. Some of the responsive records include sensitive personal information that must be carefully reviewed to ensure it is properly severed in accordance with Part 2 of FIPPA.
6. The expected pace of work on processing the records, coupled with the fact that the team member responsible for the applicant's file will be away from the office for several days in the near future, means that August 22, 2025, is a reasonable date for the Ministry to respond to the access request.⁸

⁵ See, for example, Order F16-29, 2016 BCIPC 31 at para. 8 and Order F23-59, 2023 BCIPC 69 at para. 31.

⁶ Affidavit #1 of Team Lead, attached to Ministry's Initial Submission.

⁷ I take this to be a typographical error as the access request clearly specified a period of around 18-and-one-half years, not 21 years.

⁸ See Team Lead's affidavit at paras. 15-30.

[15] The applicant says that the appropriate date is August 3, 2025. In support of this submission, they point out the negative impact which the Ministry's delay has had on their ability to hold the Ministry accountable for its past actions and the Ministry's failure to appropriately communicate with the applicant throughout the FOI process.

[16] Having reviewed the submissions and evidence provided by the parties, I find that it is appropriate in this case to order the Ministry to respond to the applicant's access request by Wednesday, August 13, 2025. I have read what the Ministry says about its current and ongoing resource constraints and the scope of work required to prepare the records responsive to the applicant's access request. However, nothing the Ministry says adequately explains the delay of nearly 11 months between when the FOI team received the responsive records and when that team started to actually sever information from the records and prepare them for disclosure to the applicant.

[17] Further, the Ministry has availed itself of more than 100 days of authorized extensions and several months of unauthorized delay, but did not complete the basic administrative work of scanning, tagging, and uploading the responsive records into its system until after the applicant had already submitted their request for review to the OIPC. Given this, it is difficult for me to find any sympathy with the Ministry's suggestion that responding to the applicant's access request was a priority which it has been foiled from addressing due to its resource constraints.

[18] I also find that the Ministry's delay has prejudiced the applicant's interests and this matter has to be resolved as promptly as reasonably possible.

[19] However, it is clear to me from what the Ministry says that some of the information in the records requested by the applicant is sensitive third-party personal information which the Ministry may be required to withhold under Part 2 of FIPPA. Given this, I do not find that anyone's interest would be served by ordering the Ministry to respond to the applicant's access request on too rushed or abridged a timeline.

[20] For all of these reasons, I find that the August 13, 2025, deadline I set out above provides a prompt resolution to this matter to the applicant while still giving the Ministry sufficient time to ensure it properly severs the records at issue to protect the interests of third parties whose information may appear in those records.

CONCLUSION

[21] For the reasons given above, under s. 58(3)(a), I order the Ministry 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 **August 13, 2025**.

[22] Under s. 58(4), I order the Ministry to copy the OIPC's registrar of inquiries on the response the Ministry sends to the applicant in compliance with paragraph 21 above.

July 22, 2025

ORIGINAL SIGNED BY

Alexander Corley, Adjudicator

OIPC File No.: F25-01130