



Order F25-69

MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT

Carol Pakkala
Adjudicator

August 28, 2025

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Quicklaw Cite: [2025] B.C.I.P.C.D. No. 80

Summary: An applicant requested access, under the *Freedom of Information and Protection of Privacy Act* (FIPPA), to specific records. The Ministry of Children and Family Development (Ministry) acknowledged it did not respond to the applicant's access request within the timeline required by s. 7 of FIPPA. The adjudicator found the Ministry had not fulfilled its duty under s. 7 of the Act and ordered it to respond to the access request by a specified date.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, ss. 7 and 10.

INTRODUCTION

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

[2] On March 4, 2024, the applicant made a request to the Ministry for access to specific records. The applicant complained to the Office of the Information and Privacy Commissioner (OIPC), alleging the Ministry had failed to respond to his request within the timelines set out in FIPPA. As of the date of the inquiry, the Ministry acknowledges it still has not responded to the access request.

ISSUES AND BURDEN OF PROOF

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

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

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

[4] The Ministry acknowledges it did not respond to the applicant's request within the time requirements of FIPPA. Section 53(3) provides 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) provides 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 the Ministry has the burden to prove that it met its duty to respond to the applicant's access request as required by s. 7 of FIPPA.²

DISCUSSION

Background

[6] On March 4, 2024, the applicant made a request to the Ministry for access to specific records. The due date to respond to this request was April 17, 2024. The Ministry extended its time to respond to May 30, 2024.³ The Ministry then asked the OIPC to grant a further extension of time to respond. The OIPC granted the request with a response due date of October 9, 2024. The Ministry did not respond by that due date. The Ministry acknowledges it failed to respond to the access request in accordance with s. 7.

Relevant Legislation

[7] Together, ss. 7(2)(a) and 10(2)(a) of FIPPA empower the Commissioner to grant permission to the head of a public body to extend the time limit for a public body to respond to an access request for a period longer than 30 days in certain circumstances. The relevant parts of ss. 7 and 10 are as follows:

Time limit for responding

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 This determination is consistent with past orders. See for example Order F25-08, 2025 BCIPC 8 (CanLII); Order F25-09, 2025 BCIPC 9 (CanLII).

³ While s. 7(1) requires a public body to respond to an access request within 30 days of receiving the request, s. 7(2) allows a public body to extend the time for responding in certain circumstances.

(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 ...

Extending the time limit for responding

10(1) The head of a public body may extend the time for responding to a request for up to 30 days if one or more of the following apply: ...

(2) In addition to the authority under subsection (1), with the permission of the commissioner, the head of a public body may extend the time for responding to a request as follows:

(a) if one or more of the circumstances described in subsection (1)
(a) to (d) apply, for a period of longer than the 30 days permitted under that subsection;

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

[8] The Ministry acknowledges it failed to comply with s. 7. Therefore, I find the Ministry has not complied with the statutory time limits in s. 7(2) of FIPPA.

What is the appropriate remedy?

[9] Section 58 of FIPPA states the Commissioner must dispose of the issues in an inquiry by making an order under s. 58. In this case, the Ministry acknowledges that it has still not responded to the access request and that it failed to respond to the applicant's access request in accordance with the statutory time limits imposed by s. 7. The usual remedy in such cases is to order the public body, under s. 58, to respond to the access requests by a particular date.⁴

Parties' submissions

[10] The Ministry attributes its delay in responding to the access request to resource and staffing issues, as well as to the complexity and volume of responsive records captured by the applicant's access request.

[11] The Ministry says the access request generated roughly 7700 pages in responsive records. The Ministry further says there are significant complexities associated with processing the records including that:

⁴ See for example Order F25-18, 2025 BCIPC 22 (CanLII); Order F25-11, 2025 BCIPC 13; F25-09, 2025 BCIPC 9; Order F25-08, 2025 BCIPC 8; Order F16-29, 2016 BCIPC 31, at paras 8-11; Order F24-90, 2024 BCIPC 103 at paras 14-16; Order F23-59, 2023 BCIPC 69 at para 31.

- they contain highly sensitive personal information of individuals other than the applicant;
- it is not always obvious to whom the personal information belongs;
- their release must comply with other applicable legislation; and
- they cover a large date range and include over 1000 pages of handwritten notes.⁵

[12] The Ministry says it is navigating a significant backlog in access requests. The Ministry further says this particular request was only recently assigned to an analyst for review. The Ministry says this analyst is now fully dedicated to reviewing the request, but they have previously scheduled vacation of two weeks away in both August and December. In addition, the Ministry says a second analyst has been assigned to conduct the secondary review in tandem with the initial review to reduce processing time.⁶

[13] The Ministry provides no affidavit evidence in this inquiry to support any of the above submissions.

[14] As a remedy, the Ministry requests that the commissioner order it to respond to the access request on or before December 31, 2025.⁷

[15] The applicant made no submissions in this inquiry. I can see from the applicant's access request that he is requesting access to his own information for the period of March 24, 2003 to March 24, 2022.

Analysis

[16] The Ministry did not provide any affidavit evidence in this inquiry to support its need for additional time to respond to the access request. For this reason, I am unable to make any findings of fact about the nature of the responsive records, or the work required to respond to the access request.

[17] From the access request, I can see that the volume of responsive records is likely significant because of the lengthy period of time involved. I can also see how this volume equates to more than a nominal amount of work. I appreciate this work presents a challenge for the Ministry in the context of a backlog of access requests. This challenge does not however, alleviate the Ministry's responsibility to comply with the legislated timelines.

[18] The Ministry took its own extension to respond to the access request. The OIPC then granted the Ministry a further extension of over four months to comply with FIPPA timelines. Almost 11 months have passed since that extended

⁵ Ministry's submission at para 14.

⁶ Ministry's submission at para 13.

⁷ Ministry's submission at para 15.

compliance date. The Ministry does not say what, if anything, it has done to process the access request in the time that has passed since the extended compliance date.

[19] Based on what the Ministry does say about an analyst only being recently appointed to review the request, I can only conclude that nothing was done during the extension already granted by the OIPC and very little in the almost 11 months since. This apparent inaction is not reasonable in my view.

[20] For all of the above reasons, the Ministry has not convinced me that it requires an extension to December 31, 2025 to respond to the access request. Given the date of this order and the tight turn around it requires, I have decided September 12, 2025 is the appropriate date by which the Ministry must provide the applicant with a response that complies with Part 2 of FIPPA.⁸

CONCLUSION

[21] For the reasons given above, I make the following order under s. 58:

1. 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 **September 12, 2025**.
2. 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 item 1 above.

August 28, 2025

ORIGINAL SIGNED BY

Carol Pakkala, Adjudicator

OIPC File No.: F25-01389

⁸ This remedy is consistent with past orders. See for example, Order F25-08, 2025 BCIPC 8 (CanLII) at para 21.