

INVESTIGATION REPORT

INVESTIGATION P96-007

DELAY IN RESPONDING TO GENERAL REQUESTS BY THE (FORMER) MINISTRY OF SOCIAL SERVICES

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COMPLAINT

On September 28, 1995, in response to a complaint filed by a reporter for the *Vancouver Sun*, the Office of the Information and Privacy Commissioner (our Office) opened an investigation into alleged delays by the (former) Ministry of Social Services (the Ministry) in responding to requests for general information. In this context, a general request refers to any request for information that is not for an individual's own personal record. The complainant informed our Office that the Ministry had not responded to her request within the 30 day time frame mandated by section 7 of the *Freedom of Information and Protection of Privacy Act* (the Act), nor had she been notified that a time extension had been taken under section 10 of the Act.

The Ministry's Information and Privacy Division, which was processing the request, informed the applicant that the delay was due to the Executive sign-off process. The applicant, who had experienced similar delays in the past, was satisfied that the Information and Privacy Division had handled her request in a timely manner, and requested that our Office investigate delays resulting from the Executive sign-off process.

Relevant sections of the Act

Time limit for responding

7. The head of a public body must respond not later than 30 days after a request is received unless

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

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

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 or, with the commissioner's permission, for a longer period if

(a) the applicant does not give enough detail to enable the public body to identify a requested record,

(b) a large number of records is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the public body,

(c) more time is needed to consult with a third party or other public body before the head can decide whether or not to give the applicant access to a requested record, or

(d) a third party asks for a review under section 52(2) or 62(2).

(2) If the time is extended under subsection (1), the head of the public body must tell the applicant

(a) the reason,

(b) when a response can be expected, and

(c) that the applicant may complain about the extension under section 42(2)(b) or 60(1)(a).

INVESTIGATION BY THE COMMISSIONER'S OFFICE

Upon receipt of the complaint, staff from this Office worked with staff from the Information and Privacy Division to calculate the length of time that was required to sign-off each general request received by the Ministry during the calendar years 1994 and 1995. A review of the compiled statistics (Appendix A), revealed that in 1994 average sign-off times ranged from a low of zero days, during January to March, to a high of 4.67 days, during October to December. This is quite a contrast to 1995 where average sign-off times ranged from a low of 13.49 days in January to March, to a high of 20.82 days, during July to September. In addition to these general statistics, specific examples were noted. For example, one request required 116 days to complete the sign-off process; another took 60 days; and 16 required over 40 days.

As the Ministry's own internal time line for processing requests only allocated five days for sign-off to be completed, this meant that a considerable number of requests for general information were being released beyond the 30 day time frame mandated by section 7. In the majority of cases, the applicants were not notified that the Ministry had taken a time extension, nor were

there circumstances evident in the requests that met the criteria required for an extension under section 10.

Based on the picture painted by these statistics an investigation of the sign-off procedure was warranted.

Once this problem was identified, the next step in the investigation was to gain an understanding of how requests for general information were being handled. Staff from this Office liaised with officials in both the Information and Privacy Division and Deputy Minister's Office of the Ministry. Discussions with various staff members revealed that the procedure for handling general requests had undergone a series of changes. Initially, all requests, whether for general or personal information, were processed and released by the Information and Privacy Division under the guidance of its Assistant Deputy Minister. Due to a number of factors, including concern for the protection of clients' privacy and the accommodation of issues management concerns, the responsibility for release of general requests gradually shifted to the Deputy Minister. At the outset of these changes, only selected requests for general information were being reviewed by the Deputy Minister prior to release. However, at the end of October 1994, all general requests required Deputy Minister sign-off.

The following is a description of the process for handling general requests at the time the complaint was initiated.

General request process

All general requests received by the Ministry were handled by two staff in the Information and Privacy Division. These staff members confirmed and clarified the request with the applicant, located and reviewed the requested records, prepared the documents for sign-off by the Deputy Ministry prior to release, and kept the Assistant Director and Director of the Information and Privacy Division apprised of any issues related to the request.

When the review of the records had been completed and the release package was ready for sign-off, it was reviewed by the Assistant Director and then by the Director of the Information and Privacy Division, who prepared a *Request for General Information Sign-off Sheet*. The sign-off sheet, along with the release letter and the applicant's copy of the records, were then forwarded to the Assistant Deputy Minister, responsible for the Information and Privacy Division, for review. When the Assistant Deputy Minister approved the release package, it was then forwarded to the Program Assistant Deputy Minister, the Regional Assistant Deputy Minister, and the Director of Communications for further approval. When sign-off approval had been received from all of these parties, the release package was then forwarded to the Manager of Executive Operations, who provided it to the Deputy Minister for consideration.

At each of these sign-off steps, the signing authority could decide that he or she required input from other staff members before sign-off could occur. In addition, if at any time a change was made to the release package, for example more or less information being released, the sign-off process would begin all over again.

As noted previously, five working days were generally allocated for this sign-off process. However, if there were contentious issues associated with the request, then a longer period of time was sometimes set aside.

Analysis

A careful analysis of the Executive sign-off process for general requests pinpointed a number of areas where time delays were occurring due to awkward or convoluted practices. In particular, requests did not always receive immediate attention as they sometimes became overshadowed by other paperwork that arrived at an individual's desk, or they would sit on the desks of people who were away for four or five days. These problems were further compounded by the absence of a tracking system, which meant that staff did not have a clear idea of where the request was at any given time. In addition, the necessity for effective time management in order to meet legislated deadlines was not clearly understood by all of those organizing or participating in the sign-off. Given these observations, the following issues were flagged for the Ministry's attention:

- Reconsideration of the number of individuals who were required to sign-off on each general request;
- Development of strategies for distinguishing sign-off requests from other in-coming material;
- Identification and communication of clear time frames for completing the sign-off process;
- Designation of alternate signing authorities to prevent delays when signing authorities are unavailable for any length of time;
- Creation of a continuous traffic flow (for example, if one signing authority is away for a day then the request moves on to the next signing authority and returns when the first signing authority is back at work);
- Development of a tracking system to monitor the progress of the request through the sign-off process; and
- Creation of a more integrated issues management plan that includes provisions for early identification and communication of issues.

Resolution

During our initial meetings with the Ministry, some minor changes were made to the sign-off process. These included the use of bright purple file folders to distinguish sign-off requests from other material, a flag on each folder indicating that the turnaround time is limited to 72 hours, and the establishment of a centralized resource person in the Information and Privacy Division to address any technical questions that may arise. At this time, the Ministry also agreed to draft a contingency plan to address the remaining issues.

On January 5, 1996, the Information and Privacy Division forwarded to our Office a copy of a draft *General Request Contingency Plan* prepared by the Manager of Executive Operations for the Ministry. In addition to the items listed above, this plan proposed the following changes to the way sign-offs are handled:

- A requirement that all questions or concerns about the information being provided in the general request should be raised by any member of the Executive within 48 hours;
- All Executive Support staff will receive appropriate training from the Manager of Executive Operations and the Director of Information and Privacy Division;
- Communications will review each general request at the time it is received, and a communications statement attached prior to the proposed release package being sent to the Deputy Minister's Office for sign-off; and
- The Manager of Executive Operations will follow-up on any delays that occur.

On January 21, 1996 our office wrote to the Ministry applauding the proposed changes contained in the contingency plan and providing feedback on two areas where some gaps still seemed to exist. These areas involved the creation of alternate sign-off processes in the event that one of the signing authorities is unavailable for an extended period of time, and the development of strategies to prevent requests from being entangled in the sign-off cycle for a protracted period of time. With respect to an alternate sign-off system, it was suggested that the Ministry incorporate the following three elements:

- If a signing authority is unavailable, the request should be forwarded to the next signing authority on the list so that delays do not occur;
- If any of the signing authorities are to be unavailable for an extended period of time, an alternate signing authority should be designated; and
- An alternate signing authority should review and sign-off the request and forward it to the next signing authority.

On March 8, 1996 the Ministry informed our Office that sign-off documents were being delivered in person to each signing authority so that no delays would occur due to the documents sitting on the desk of someone who is absent. In addition to this procedure, an acting or alternate Assistant Deputy Minister (signing authority), who has authority to sign-off general access requests, will be designated whenever an Assistant Deputy Minister (signing authority) is going to be unavailable for an extended period of time.

The Ministry also indicated that the Communications Division had now developed a tracking system to guide the movement of general requests through the sign-off process. It was expected that this new system would enhance the timely release of general requests in the future.

Conclusion

At this point, in March 1996, the Ministry had effectively addressed all but one of the issues raised by our Office. With respect to a reduction in the number of individuals involved in the sign-off process, the Ministry felt that the sensitive nature of the files held by the Ministry warranted such an exhaustive review prior to release in order to protect the best interests of the Ministry's clients.

Given that significant changes had occurred to the sign-off process for general requests since the time of the original complaint, this Office decided to monitor the new procedures to see if they

effectively addressed the issue of delayed responses. After three months, the system seemed to be working more effectively, and most general requests were released within the legislated time frames. The complexity of the process was still cumbersome, however, and the potential for delays still evident.

At a subsequent three-month review, our Office was informed that further changes had been made to the general request sign-off process. In the new Ministry of Human Resources, which is one portion of the former Ministry of Social Services, all routine general requests are now signed off by the Director of the Information and Privacy Division. More contentious requests are reviewed and signed-off by the Assistant Deputy Minister responsible for the Information and Privacy Division. If it is believed necessary to have other parties comment on the proposed release package, the Assistant Deputy Minister will contact the appropriate parties and track the sign-off time for the request. In the new Ministry of Children and Families, on the other hand, which includes the remaining portion of the former Ministry of Social Services, Deputy Minister sign-off is still required for all requests for general records.

With the recent changes made by the Ministry of Human Resources to the general request sign-off process, all issues raised by this Office have now been addressed, and the deadlines for release of the requested material are being effectively met on a consistent basis. While the Ministry of Children and Families is also meeting the release deadlines for general requests in the majority of cases, my Office will continue to monitor the sign-off process in this Ministry in order to ensure that further difficulties do not arise from the complex sign-off structure still in place.

Based on the outcomes outlined above, this Investigation Report concludes and closes the complaint investigation.

David H. Flaherty
Commissioner

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APPENDIX A