

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2022-06**

February 18, 2022

**CAPITALCARE**

Case File Number 009659

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** The Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* to CapitalCare (the Public Body).

The Public Body did not respond to the access request or extend the time for responding and the Applicant sought review by the Commissioner.

The Adjudicator found that the Public Body responded to the access request prior to the inquiry. As a result, she found that the Public Body had now met its duty to respond to the Applicant as required by section 11.

**Statutes Cited:** **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14, 72

**1. BACKGROUND**

[para 1] On April 30, 2018, the Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* to CapitalCare (the Public Body) for her personal information.

[para 2] The Public Body did not acknowledge the access request. On July 18, 2018, the Applicant asked the Commissioner to review the Public Body's failure to respond to the access request.

[para 3] The Commissioner authorized a senior information and privacy manager to investigate and attempt to settle the matter. During this process, the Public Body responded to the access request.

**II. ISSUE: Did the Public Body meet its duty to the Applicant as provided by section 11 of the Act (time limit for responding)?**

[para 4] Section 11(1) of the Act establishes the time frame for responding to an access request. It states:

*11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless*

*(a) that time limit is extended under section 14, or*

*(b) the request has been transferred under section 15 to another public body.*

*(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.*

[para 5] Section 14 of the FOIP Act authorizes a public body to respond to an access request within a time frame greater than 30 days in specific circumstances. The Public Body did not extend the time for responding in this case.

[para 6] The Public Body stated for the inquiry:

On Feb 28, 2020 CapitalCare notified [the Applicant] that the first of three packages of information related to her FOIP [...] request for the period of May 30, 2018 to May 30, 2020 was ready and included information for the period of May 30, 2018 to December 31, 2019.

CapitalCare did not receive a response to this letter. An email for sent to [the Applicant] to clarify a correction in a phone number. This email was undelivered. The OIPC advised that they would communicate to [the Applicant] that the Pkg was ready. The information requested by [the Applicant] has not been claimed to date.

The Public Body provided copies of the correspondence it attempted to send the Applicant.

[para 7] The Applicant did not make submissions for the inquiry.

[para 8] The Public Body's uncontested evidence is that it has now responded to the access request, although it did not initially respond within the time set out in section 11. As the Public Body has now made the requested records available to the Applicant, there would be no benefit in issuing an order directing it to do so. Instead, I will confirm that it has now met its duty to the Applicant.

#### **IV. ORDER**

[para 9] I make this order under section 72 of the FOIP Act.

[para 10] I confirm that the Public Body has now met its duty to respond to the Applicant, as required by section 11 of the FOIP Act.

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Teresa Cunningham  
Adjudicator  
/ah