

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2017-72**

September 5, 2017

**EXECUTIVE COUNCIL**

Case File Number 006053

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

**Summary:** On February 2, 2017, the Wildrose Party (the Applicant) made an access request to Executive Council (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) for all records relating to the processing of FOIP 2016-G-0248 by the Public Body.

The Public Body did not respond to the Applicant. On June 9, 2017, the Applicant requested that the Commissioner review the Public Body's failure to respond to its access request.

At the inquiry, the Public Body acknowledged that it had not complied with its duty under section 11 (time limit for responding).

The Adjudicator ordered the Public Body to comply with its remaining duties in relation to section 11.

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

## I. BACKGROUND

[para 1] On February 2, 2017, the Applicant, the Wildrose Party, made a request for access to Executive Council (the Public Body) for the records relating to the processing of FOIP 2016-G-0248.

[para 2] On June 9, 2017 the Applicant requested review by the Commissioner of the Public Body's lack of response to its access request.

## II. ISSUE

### **Issue A: Did the Public Body comply with section 11 of the Act (time limit for responding)?**

[para 3] Section 11 of the Act requires a public body to make every reasonable effort to respond to an access request no later than 30 days after receiving the request. Section 11 of the Act 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 4] In its submissions for the inquiry, the Public Body acknowledged that it had not complied with section 11 of the FOIP Act:

The delay in processing the response can be attributed to the ministry's influx of FOIP requests, large number of records and staff turnover within this timeframe.

The Public Body attributes its delay in responding to the Applicant to the number of access requests it receives and staff turnover.

[para 5] I find the Public Body has failed to meet its obligations under section 11 of the FOIP Act. As a result, I must order it to respond to the Applicant.

## III. ORDER

[para 6] I make this Order under section 72 of the Act.

[para 7] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now

comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 8] I further order the Public Body to notify me in writing, within 50 days of being given a copy of this Order that it has complied with it.

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Teresa Cunningham  
Adjudicator