

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2018-69

November 9, 2018

ALBERTA HEALTH SERVICES

Case File Number 009463

Office URL: www.oipc.ab.ca

Summary: The Applicant made a request for records under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Alberta Health Services (the Public Body). The Applicant requested:

[...] all email (including attachments) within the communications department relating / referring to the Red Deer Hospital.

Please note that email may be restricted to final strings where that final string shows the entirety of the conversation.

The time frame for the records to be responsive was between July 1, 2015 and March 15, 2018.

The Public Body collected a deposit to process the fees, but did not respond to the Applicant.

The Adjudicator directed the Public Body to respond to the access request.

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] The Applicant made a request for records under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Alberta Health Services (the Public Body). The Applicant requested:

[...] all email (including attachments) within the communications department relating / referring to the Red Deer Hospital.

Please note that email may be restricted to final strings where that final string shows the entirety of the conversation.

The time frame for the records to be responsive was between July 1, 2015 and March 15, 2018.

[para 2] The Public Body acknowledged receiving the request on March 16, 2018. It anticipated that it would respond by April 16, 2018 or inform the Applicant that it required more time.

[para 3] On March 21, 2018, the Public Body informed the Applicant that fees had been assessed at \$1085.00. It required a 50% deposit before it would process the access request.

[para 4] On April 23, 2018, the Applicant requested a fee waiver on the basis that it was seeking the records on behalf of the public interest.

[para 5] On May 3, 2018, the Public Body agreed to reduce the fees by 80%. It required a deposit of \$108.50 prior to processing the access request.

[para 6] On May 10, 2018, the Public Body confirmed that it had received the Applicant's deposit.

[para 7] On August 17, 2018, the Applicant requested review by the Commissioner of the Public Body's failure to respond to the access request.

[para 8] The Commissioner decided that the question of whether the Public Body had complied with statutory time limits should proceed directly to inquiry. A notice of inquiry was sent to the Applicant and the Public Body on September 28, 2018.

[para 9] The date for the Public Body to provide submissions regarding its compliance with the time limits in the FOIP Act was October 19, 2018. The Public Body did not provide submissions.

II. ISSUE: Did the Public Body comply with section 11 (time limit for responding)?

[para 10] 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 11] The evidence submitted by the Applicant establishes that the Public Body has not yet responded to the Applicant's access request and has exceeded the time for responding set out in section 11. I must therefore direct the Public Body to comply with its duty under section 11 by responding to the Applicant.

III. ORDER

[para 12] I make this order under section 72 of the Act.

[para 13] I order the Public Body to respond to the Applicant as required by section 11 of the FOIP Act.

[para 14] I order the Public Body to inform me within 50 days of receiving this order that it has complied with it.

Teresa Cunningham
Adjudicator