

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## ORDER PO-4517

Appeal PA23-00677

Ministry of the Solicitor General

May 13, 2024

**Summary:** On May 25, 2023, the requester submitted a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the Ministry of the Solicitor General (the ministry) for access to general records. The requester appealed to this office on the basis that the ministry failed to provide an access decision within the prescribed time limit under the *Act*. This order finds the ministry to be in a deemed refusal situation pursuant to section 29(4) of the *Act*. The ministry is ordered to issue a final decision regarding access by May 28, 2024, without any recourse to a time extension.

**Statutes Considered:** Freedom of Information and Protection of Privacy Act, ss. 26, 27, and 29.

### BACKGROUND:

[1] On May 25, 2023, the requester submitted a five-page, multi-part access request to the Ministry of the Solicitor General (the ministry) for access to general records.

[2] On May 30, 2023, the ministry confirmed receipt of the request.

[3] On July 7 and again on September 7, 2023, the requestor contacted the ministry to request the anticipated date for the issuance of the final decision.

[4] Both times, the ministry replied by advising that the request was being worked on, and a decision would be provided as soon as possible.

[5] On December 1, 2023, the Information and Privacy Commissioner/Ontario (this office) received a deemed refusal appeal from the requester (now the appellant) indicating that the ministry had not provided a response to the access request. As a result, file PA23-00677 was opened and assigned to me as the Acting Adjudicator.

[6] On February 5, 2024, I sent a Notice of Inquiry (the notice) to the appellant and the ministry. The notice indicated that the appellant had filed a deemed refusal appeal against the ministry, on the basis that the ministry had not issued a decision letter within the time period set out in section 26 of the *Act*.

[7] The notice advised the ministry to issue a final access decision letter to the appellant as soon as possible. The notice also indicated that should a resolution not be reached by February 19, 2024, an order requiring the ministry to issue a decision letter to the appellant could be issued.

[8] On February 6, 2024, the ministry advised this office that it was waiting on consultations but provided no other updates.

[9] On February 7, 14 and 20, 2024, I wrote to the ministry to request an update on this matter.

[10] On February 22, 2024, the ministry apologized for the delay and advised that a final decision would be issued by February 29, 2024.

[11] Subsequent to the above, on March 14, 2024, the ministry again advised this office that a final decision would be issued by March 22, 2024. This information was provided to the appellant.

On March 27, 2024, and April 11, 2024, I contacted the ministry and requested an update, however to date, the ministry has not provided a response.

[12] In light of the above, and to ensure there are no further delays in processing this request, I am ordering the ministry to issue a final access decision to the appellant.

## **DISCUSSION:**

[13] Section 26 of the *Act* states that the head of an institution shall, subject to sections 27 (time extension), 28 (third party notice) and 57 (payment of fees), give written notice of its decision on an access request within 30 days after the request is received.

[14] Where a head fails to issue a decision on access within the legislated framework, section 29(4) of the *Act* applies. This section states:

A head who fails to give the notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal

to give access to the record on the last day of the period during which notice should have been given.

[15] The ministry received the appellant's request on or about May 25, 2023.

[16] As of today's date, the ministry has not issued its final access decision.

[17] Therefore, I find the ministry to be in a deemed refusal situation pursuant to section 29(4) of the *Act*.

[18] To ensure that there are no further delays, I will order the ministry to issue a final access decision to the appellant no later than May 28, 2024, without recourse to any further time extensions under section 27 of the *Act*.

**ORDER:**

1. I order the ministry to issue a **final** access decision to the appellant regarding access to the records in accordance with the *Act* without recourse to a time extension, no later than **May 28, 2024**.
2. In order to verify compliance, the ministry shall provide me with a copy of the response referred to in provision 1 by May 28, 2024. This copy should be forwarded to my attention c/o Information and Privacy Commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto, Ontario M4W 1A8.

Original Signed By: \_\_\_\_\_  
Soha Khan

\_\_\_\_\_ May 13, 2024