

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4560

Appeal PA24-00218

Ministry of the Solicitor General

October 10, 2024

Summary: On February 28, 2024, a media appellant asked the ministry for the final version of a report. The requester filed an appeal because the ministry failed to provide a decision within the prescribed time. This order finds the ministry to be in a deemed refusal situation and orders the ministry to issue a final decision by October 30, 2024.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, as amended, sections 26 and 29.

BACKGROUND:

[1] On February 28, 2024, a media appellant submitted an access request to the Ministry of the Solicitor General (the ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for:

A digital copy of the final version of the Ministry of Solicitor General's "Roadmap for Correctional Services". It would've been finalized sometime around March 30, 2023.

[2] On April 10, 2024, the appellant filed an appeal with the Information and Privacy Commissioner of Ontario (the IPC) when the ministry failed to issue a decision to the appellant within 30 days of the access request. File PA24-00218 was opened.

[3] On July 30, 2024, I was assigned this appeal as a case lead.

[4] On August 7, 2024, I advised the ministry that an appeal had been filed and asked if a decision had been issued to the appellant. I also asked, if a decision had not been issued, that a decision be issued to the appellant by August 21, 2024.

[5] On that same date, the ministry advised that it required its file number. I advised that, because the ministry had not acknowledged the appellant's access request, there was no ministry file number to reference.

[6] On August 8, 2024, I provided the ministry with additional details to locate the access request, including the wording of the access request and the ministry's access request submission confirmation number.

[7] On August 15, 2024, the ministry advised that it had identified the access request, and the assigned analyst would respond after August 19, 2024.

[8] On August 20, 2024, I requested an update but did not receive a response.

[9] On August 22, 2024, I advised the ministry that I would proceed to a formal inquiry of this matter due to the ministry's lack of communication. The ministry advised that it would respond by August 26, 2024, however, a response was not received by that date.

[10] On September 5, 2024, I issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final decision to the appellant by September 27, 2024.

[11] A final decision was not issued by September 27, 2024.

[12] Considering 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:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27, 28 and 57, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

[14] The circumstances giving rise to a deemed refusal are set out in section 29(4) of the *Act*. This section states:

A head who fails to give 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] If a time extension is not issued, it is expected that, prior to the expiry of the 30-day time limit in section 26 of the *Act*, written notice will be given to the requester as to whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of the 30-day time limit, the institution would be in a "deemed refusal" pursuant to section 29(4) of the *Act*.

[16] The ministry did not request an extension of time to respond to the access request. As of today, the ministry has not issued its final access decision despite the issuance of a Notice of Expedited Inquiry, encouraging it to do so by September 27, 2024.

[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 October 30, 2024, without recourse to any time extension 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 **October 30, 2024**.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 **by October 30, 2024**.

Original signed by: _____

Alline Haddad
Case Lead

October 10, 2024 _____