

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4606

Appeal PA24-00503

Ministry of the Solicitor General

February 14, 2025

Summary: On July 30, 2024, a non-profit organization asked the ministry for records related to medical assistance in dying in Ontario. On August 29, 2024, the ministry extended the time to respond until October 28, 2024. The organization filed an appeal with the IPC. To date, the ministry has not issued a final access decision. The decision-maker finds that the ministry is deemed to have refused the access request under section 29(4) of the *Act* and orders the ministry to issue a final access decision by February 28, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.3, as amended, sections 26 and 29.

BACKGROUND:

[1] On July 30, 2024, the appellant, a non-profit organization, 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 records pertaining to medical assistance in dying (MAiD) in Ontario for the years 2023, 2022 and 2021.

[2] On August 29, 2024, the ministry issued a time extension letter to the appellant, extending the time to respond by 60 days, to October 28, 2024.

[3] On August 30, 2024, the appellant filed an appeal with the Information and Privacy Commissioner of Ontario (the IPC) in relation to the time extension claimed by the ministry. File PA24-00503 was opened.

[4] On December 10, 2024, I was assigned this appeal as case lead.

[5] On January 6, 2025, I inquired about the status of the ministry issuing its final decision and requested a response by January 13, 2025. I did not receive a response.

[6] On January 13, 2025, I contacted the ministry again and did not receive a response.

[7] On January 20, 2025, I decided to conduct an inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final access decision by February 3, 2025.

[8] A final decision was not issued by this date, and I advised the ministry that I would proceed with issuing my order.

[9] On February 4, 2025, the ministry advised it should be able to issue a decision by the end of the month. Considering the above, and to ensure there are no further delays in processing this request, I will order the ministry to issue a final access decision to the appellant.

DISCUSSION:

[10] 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.

[11] 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.

[12] Once a time extension has been issued, it is expected that, prior to the expiry of the extension, subject to sections 28 and 57 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 extension, the institution would be in a "deemed refusal" pursuant to section 29(4) of the *Act*.

[13] The appellant requested records on July 30, 2024. The ministry requested an extension of time until October 28, 2024 to respond to the access request. As of today, the ministry has not issued its final access decision, despite the filing of an appeal by the appellant and the issuance of a Notice of Expedited Inquiry by the IPC, encouraging it to do so by February 3, 2025.

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

[15] I am mindful that the ministry has indicated that it should be able to issue a decision by the end of the month. To ensure that there are no further delays, I will order the ministry to issue a final access decision to the appellant without recourse to a 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, by **February 28, 2025**.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by **February 28, 2025**.

Original Signed by: _____

Alline Haddad
Case Lead

February 14, 2025 _____