

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4664

Appeal PA24-00775

Ministry of the Solicitor General

June 9, 2025

Summary: On October 31, 2024, a public interest group asked the Ministry of the Solicitor General for records about a 2023 Animal Welfare Service Annual Report. It appealed because the ministry did not issue a decision within the prescribed time limit. The ministry then issued an interim decision with fee estimate after the time limit to do so. The decision-maker finds the ministry is deemed to have refused the access request and this is not cured by the interim decision. The ministry is ordered to issue a final decision by June 23, 2025.

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

Orders Considered: Orders MO-1748, PO-2595 and PO-2634.

OVERVIEW:

[1] On October 31, 2024, a public interest group (the appellant) asked the Ministry of the Solicitor General (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to records about a 2023 Animal Welfare Services Annual Report¹.

[2] On December 20, 2024, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) when the ministry failed to issue a decision to the

¹ Available online at: [2023 Animal Welfare Services Annual Report | ontario.ca](https://www.ontario.ca/2023-animal-welfare-services-annual-report).

appellant within 30 days of the access request. File PA24-00775 was opened.

[3] On April 7, 2025, I asked the ministry whether a decision had been issued for this access request. I did not receive a response from the ministry.

[4] On April 15, 2025, I advised the ministry that I would proceed to an expedited inquiry if I did not receive a response by April 24, 2025. I did not receive a response from the ministry.

[5] On April 29, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final decision by May 13, 2025. A final decision was not issued by this date.

[6] Despite not receiving responses to my earlier emails for an update on this request, on May 27, 2025, the ministry provided me with a copy of its interim decision of April 1, 2025, requesting a fee deposit from the appellant.

[7] Considering the above, and to ensure there are no further delays in processing this access request, I will order the ministry to issue a final decision to the appellant.

DISCUSSION:

[8] 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.

[9] 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.

[10] Where 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*, 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 30-day time limit, the institution would be in a “deemed refusal” pursuant to section 29(4) of the *Act*.

[11] Previous IPC orders have found that an interim decision/fee estimate² should be issued within the initial 30-day time limit for responding to a request. Moreover, previous IPC orders have found that issuing an interim decision/fee estimate once the 30-day time limit has expired does not cure a deemed refusal as it is not a final access decision.³

[12] The appellant requested records on October 31, 2024. The ministry did not request an extension of time to respond to the access request. While the ministry issued an interim decision on April 1, 2025, this was after the initial 30-day time limit for responding to the access request. Moreover, this interim decision is not a final access decision and would not cure a deemed refusal, which requires a final access decision.

[13] As of today, the ministry has not issued its final access decision despite the appellant filing this appeal with the IPC and me issuing a Notice of Expedited Inquiry, encouraging it to do so by May 13, 2025.

[14] As a final decision was not issued to the appellant within 30 days of the access request, the ministry is deemed to have refused the access request.

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

[16] To ensure that there are no further delays, I will order the ministry to issue a final access decision to the appellant.

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* and without recourse to a time extension, by **June 23, 2025**.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by **June 23, 2025**.

Original Signed by: _____

June 9, 2025 _____

² Orders MO-1748 and PO-2634.

³ Orders PO-2595 and PO-2634.

Kelley Sherwood
Case Lead