

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4678

Appeal PA24-00690

Ministry of Long-Term Care

July 15, 2025

Summary: On September 18, 2023, an individual asked the Ministry of Long-Term Care for records about specific long-term care homes. They appealed because the ministry did not issue a decision within the prescribed time limit. The decision-maker finds that the ministry has not issued a decision, and the request is deemed to have been refused. The ministry is ordered to issue a final decision by July 29, 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 September 18, 2023, the appellant asked the Ministry of Long-Term Care (the ministry)¹ for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to records related to specific long-term care homes' licensing, bed redevelopment, and expansion.

[2] On September 21, 2023, the ministry contacted the appellant to clarify the request. That same day, the appellant clarified the request.

[3] On September 22, 2023, the ministry contacted the appellant and requested

¹ While the request was initially processed by the access office at the Ministry of Health, it was later transferred to the access office at the Ministry of Long-Term Care to complete its processing.

further clarification. That same day, the appellant further clarified the request.

[4] On October 31, 2023, the ministry extended the time to issue a decision until January 29, 2024. However, the ministry did not issue a decision by this date.

[5] In May and October 2024, the appellant requested an update from the ministry. The ministry advised that an update would be provided and that a decision would be issued shortly.

[6] On November 12, 2024, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision by the extended due date. File PA24-00690 was opened.

[7] On May 21, 2025, the IPC asked the ministry whether a decision had been issued for this access request.

[8] On June 2, 2025, the ministry advised that a decision had not been issued and it was actively working on a decision.

[9] While the IPC asked the ministry for an update by June 9, 2025, it did not provide a response.

[10] On June 20, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final decision by July 4, 2025. A final decision was not issued by this date.

[11] On July 7, 2025, I asked the ministry for an update. The ministry advised that a final decision had not been issued.

[12] 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 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] Where 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 time extension, the institution would be in a "deemed refusal" pursuant to section 29(4) of the *Act*.

[16] The appellant requested records on September 8, 2023. While the ministry extended the time to respond to the access request, it did not issue a decision by the extended due date.

[17] 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 July 4, 2025. As a final decision was not issued to the appellant by the extended due date, the ministry is deemed to have refused the access request.

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

[19] 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 **July 29, 2025**.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by **July 29, 2025**.

Original Signed by: _____
Michael Cusato
Case Lead

July 15, 2025 _____