

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4721

Appeal PA23-00678

Ministry of Infrastructure

September 10, 2025

Summary: On April 21, 2023, an individual asked the Ministry of Infrastructure for records about the relocation of the Ontario Science Centre. 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 final access decision, and the request is deemed to have been refused. The ministry is ordered to issue a final access decision by September 24, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 26 and 29.

OVERVIEW:

[1] On April 21, 2023, the appellant asked the Ministry of Infrastructure (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for:

Access to all plans, reports, briefing notes, assessments, directives or recommendations concerning a proposal to relocate the Ontario Science Centre, prepared since April 1, 2019. For the time frame of April 1, 2019, to April 21, 2023.

[2] On May 24, 2023, the ministry extended the time to respond to the request by an additional 80 days until August 12, 2023.

[3] On August 16, 2023, the ministry notified the appellant that the request may affect

the interests of third parties, and it was giving the third parties an opportunity to make representations on the disclosure of the records.

[4] On December 1, 2023, the appellant filed an appeal with the Information and Privacy Commissioner of Ontario (the IPC) when the ministry failed to issue a decision by the extended due date. File PA23-00678 was opened.¹

[5] On June 30, 2025, the IPC asked the ministry whether a final decision had been issued, requesting a response by July 14, 2025.

[6] On July 16, 2025, the IPC followed up with the ministry, indicating that if a response was not received by July 23, 2025, a formal inquiry would be started.

[7] On July 22, 2025, the ministry advised that it has not yet issued a decision to the appellant and still needed a few months to complete the request due to a lack of resources and recent internal transitions.

[8] On August 11, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final access decision by August 29, 2025. A final decision was not issued by this date.

[9] On August 27, 2025, the ministry contacted the IPC and mentioned that this request, along with other requests, was in the process of transition to another ministry. I note that the ministry did not contact me as this appeal's assigned case lead.

[10] On September 3, 2025, the IPC requested additional details. To date, a response was not received from the ministry.

[11] 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:

[12] Section 26 of the *Act* outlines the timelines for an institution to respond to an access request:

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,

¹ This appeal was placed on hold under IPC's [File Processing Limit](#) policy.

(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.

[13] Section 29(4) of the *Act* outlines the circumstances giving rise to a deemed refusal:

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.

[14] Previous IPC orders have found that a decision to extend the time for responding to a request should be issued within the initial 30-day time limit for responding to a request.²

[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 April 21, 2023. The ministry issued an extension of time until August 12, 2023 and then issued a notice of delay for third-party notification on August 16, 2023, which required the ministry to issue a final access decision within thirty days.³ Both of those time limits have now passed.

[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 August 29, 2025. As a final decision was not issued to the appellant by the extended due date and/or within 30 days of its notice of delay for third-party notification, 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.

² Orders MO-1520-I, PO-2634.

³ See sections 28(4) and 28(5) 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* and without recourse to a time extension by September 24, 2025.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by September 24, 2025.

Original Signed by: _____

Kelley Sherwood
Case Lead

September 10, 2025