

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4726

Appeal PA25-00109

Ministry of Long-Term Care

September 17, 2025

Summary: On September 8, 2020, an individual asked the Ministry of Long-Term Care for records about the ministry response to COVID-19 outbreaks in 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 final decision, and the request is deemed to have refused. The ministry is ordered to issue a final decision by October 1, 2025.

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

OVERVIEW:

[1] On September 28, 2020, the appellant asked the ministry for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to:

1. Ministry guidelines on criteria and frequency of inspections of long-term care homes;
2. Logs of all inspections of long-term care homes conducted in the last 5 years (2015 to the present);
3. All inspection reports produced for the listed long-term care homes in the last 5 years (2015 to present);

4. Yearly/Annual Reports prepared by the ministry for each listed long-term care home in the last 5 years (2015 to present);

5. The Ontario government's plan to address the first wave of Covid-19 outbreaks in long-term care homes and all related internal memoranda, communications, and documents;

6. The Ontario government's plan to address a potential second wave of Covid-19 outbreaks in long-term care homes and all related internal memoranda, communications, and documents;

7. All internal and consultants' and experts' reports, assessments, and communications addressing the ministry's response to the Covid-19 pandemic, dating back to December 2019;

8. All internal and/or consultants' and experts' reports, assessments, and communications addressing Infection Prevention and Control (IPAC) policies, protocols or practices in response to the Covid-19 pandemic, particularly in the long-term care home sector;

9. All internal and/or consultants' and experts' reports assessing the ministry's response to Covid-19 outbreaks at Ontario's long-term care homes dating back to December 2019;

10. All communications from long-term care homes requesting guidance, assistance, or advice with respect to IPAC policies, protocols or practices, dating back to December 2019, and responses provided by the ministry or its consultants;

11. All internal and/or consultants' reports assessing the ministry's management of long-term care home providers;

12. Documents and all internal memos and communications related to the procurement and deployment of Personal Protective Equipment (PPE) to long-term care homes from December 2019 to the present;

13. All ministry policies and guidelines related to training long-term care home staff on the subjects of IPAC and emergency response, including all internal memos and communications dating back to December 2019.

[2] On November 14, 2020, the appellant asked the ministry when a decision would be issued in response to their request.

[3] On November 24, 2020, the ministry proposed dividing the request into three separate batches to manage the request. It advised that it would process each batch consecutively providing separate consecutive access decisions.

[4] On December 21, 2020, the appellant responded to the ministry's proposal and requested the request be parcelled as follows:

Batch 1	Parts 5, 8, 9 and 10
Batch 2	Parts 7, 12, and 13
Batch 3	Parts 1, 4, 6 and 11

[5] The appellant also notified the respondent that they were abandoning parts 2 and 3 of the request.

[6] On February 3, 2021, the ministry issued an interim access decision in response to batch 1 of the request, indicating that:

- Access would be granted in part to responsive records, where section 12 (Cabinet records) and section 13 (Advice to government) exemptions may apply and that it is not known if other exemptions may apply;
- A preliminary search identified 5000 records as responsive to the request;
- A fee estimate of \$2100 was provided in an itemized fee statement;
- A fee deposit of \$1050 was required to proceed with the request; and
- The time frame for processing the request is suspended until a reply is received.

[7] The appellant paid the deposit on February 10, 2021.

[8] On March 18, 2021, the ministry issued a time extension of 150 days until August 15, 2021 to respond to the request due to the volume of records.

[9] On September 27, 2021, the appellant asked the ministry for an update as they did not receive the records by the extended time limit. The ministry did not respond.

[10] On July 11, 2023, and August 15, 2023, the appellant again contacted the ministry, who did not respond.

[11] On February 14, 2025, the appellant filed an appeal with the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision to the appellant by the extended time limit. File PA25-00109 was opened.

[12] On June 20, 2025, the IPC asked the ministry whether a final access decision had been issued. In its response, the ministry advised that a final access decision had not been issued and could not provide an expected date for doing so.

[13] On June 23, 2025, the IPC encouraged the ministry to issue a final access decision

by July 7, 2025. The ministry did not issue its decision by this date.

[14] On July 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 August 19, 2025. A final decision was not issued by this date.

[15] 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:

[16] Section 26 of the *Act* outlines the time parameters 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 section 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.

[17] 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.

[18] Previous IPC orders have found that a decision to extend the time for responding to a request¹ and/or an interim decision/fee estimate² should be issued within the initial 30-day time limit for responding to a request.

[19] 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

¹ Orders MO-1520-I, PO-2634.

² Orders P-234, M-439 M-581, MO-1748 and PO-2634.

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*.

[20] Previous IPC orders have found that issuing a time extension³ or an interim decision/fee estimate⁴ once the 30-day time limit has expired does not cure a deemed refusal.

[21] After working with the appellant to divide the request into batches and after the 30-day time limit, the ministry issued its interim access decision with fee estimate and issued a time extension.⁵ I note that appellant paid the deposit as requested by the ministry for batch one of the request. As a final access decision was not issued to the appellant by the extended due date for batch 1 of the request and no final access decision has been issued for any of the request to date, the ministry is deemed to have refused the access request.

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

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

Original Signed by: _____

Asma Mayat
Case Lead

September 17, 2025

³ Orders MO-1777, PO-2595 and PO-2634.

⁴ Orders PO-2595 and PO-2634.

⁵ The ministry may have already been in a deemed refusal position given that its interim access decision and time extension were claimed after the 30-day time limit to do so. This is less relevant given that the ministry has not issued a decision by the extended due date.