

**SASKATCHEWAN
INFORMATION AND PRIVACY COMMISSIONER**

REVIEW REPORT 128-2014

Ministry of Health

Summary: The Applicant submitted an access to information request to the Ministry of Health (Health). Applicant received notice from Health that it would be extending the period to respond pursuant to the access request pursuant to subsection 12(1)(a)(i) of FOIP. After a conversation with Health, the Applicant asserts that she was advised by Health to withdraw her request, and submit two new access to information requests. She did so. Unfortunately, she still did not receive a response to neither request within legislated timelines. 151 days elapsed before she received a response to one of her requests. She appealed to the Information and Privacy Commissioner (IPC). In the course of the review, Health assured the IPC that it was committed to responding to applicants in a timely manner, and that it has implemented standard work where it will clarify requests early on in its access request process. The IPC found that Health did not respond within legislated timelines. He recommended that Health continue to strive to respond to access requests within legislated timelines.

I BACKGROUND

[1] On July 4, 2014, the Ministry of Health received an access to information request. On July 22, 2014, Health advised the Applicant that it was extending the period to provide a response pursuant to subsection 12(1)(a)(i) of *The Freedom of Information and Protection of Privacy Act* (FOIP). However, on August 28, 2014, the Applicant withdrew her access to information request after a discussion with Health.

[2] On August 29, 2014, Health received two new access to information requests. In her Request for Review to my office, the Applicant asserts she was advised by Health to split

her original request to two new access to information requests. This Review Report only deals with one of the two new access to information requests.

- [3] On September 25, 2014, Health notified the Applicant it was extending the period to provide a response to the Applicant pursuant to subsection 12(1)(a)(i) of FOIP.
- [4] On November 20, 2014, the Applicant appealed to my office because she still had not received a response from Health.
- [5] On January 27, 2015, Health provided a response to the Applicant.
- [6] On March 24, 2015, the Applicant advised me that her only concern is the length of time it took for Health to respond to her request.

II RECORDS AT ISSUE

- [7] The issue in this Review Report is the length of time it took Health to respond. Therefore there are no records at issue.

III DISCUSSION OF THE ISSUES

1. Did Health respond to the Applicant within the legislated timelines?

- [8] Subsection 7(2) of FOIP requires government institutions to respond to access to information requests within 30 days after the request is made. Subsection 7(2) provides:

7(2) The head shall give written notice to the applicant within 30 days after the application is made:...

- [9] Subsection 12(1) of FOIP enables government institutions to extend the 30 days for a reasonable period not exceeding 30 days.

- [10] 151 days elapsed between the time Health received the access to information request to the time that the Applicant received a response from Health. I find that Health did not respond to the Applicant within the legislated timelines.
- [11] I have already issued several reports addressing the issue of delay. Health has responded by stating the steps it will take to address these delays, including holding a kaizen event (Review Report 063-2015 to 077-2015). In the course of this review, my office recommended that Health continue to strive to respond to access to information requests within the legislated timelines. In a letter dated May 11, 2015, Health assured my office that it is committed to responding to applicants in a timely manner and to its continuous improvement efforts of its Health Information Privacy Unit.
- [12] What is unique about this file from the reports I have already issued on delays, is the Applicant's assertion she was advised by Health to split her original request into two new access to information requests.
- [13] Health's submission states that it does not know precisely what the conversation was between Health's employee and the Applicant because the employee no longer worked at the ministry. Health does state in its submission that the conversation resulted in the decision by the Applicant to withdraw the requests and submit two new requests.
- [14] Apart from the details of the conversation between Health and the Applicant, I am concerned that the initial request was withdrawn and that two new access requests were submitted. Instead of having the Applicant withdraw and submit two new access requests, Health could have clarified the original access request with the Applicant. Subsection 6(3) of FOIP enables the government institution to seek clarification if it is unsure what record the Applicant is seeking. Subsection 6(4) of FOIP states that an access request is deemed to have been made once the government institution has received the clarification:
- 6(3) Where the head is unable to identify the record requested, the head shall advise the applicant, and shall invite the applicant to supply additional details that might lead to identification of the record.
- (4) Where additional details are invited to be supplied pursuant to subsection (3), the application is deemed to be made when the record is identified.

[15] In the course of this review, my office recommended that Health ensure it seeks clarification from the Applicant, if clarification is required, to avoid a similar situation from occurring in the future. Clarification may assist in reducing delays. In its letter dated May 11, 2015, Health advised that it has implemented a standard work process where it seeks clarification from the Applicant early in the access request process so it understands what the Applicant is seeking and to avoid delays. Health also states it has improved its documentation standards so relevant information from conversations with applicants is recorded in files.

V FINDINGS

[16] I find that Health did not respond to the Applicant within the legislated timelines.

VI RECOMMENDATIONS

[17] I recommend that Health continue to strive to respond to access to information requests within the legislated timelines.

Dated at Regina, in the Province of Saskatchewan, this 12th day of May, 2015.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner