



REVIEW REPORT 326-2017 to 332-2017

Ministry of Health

January 31, 2018

Summary: The Applicant requested a review from the Commissioner because he had not received responses to seven access requests made in June 2017 to the Ministry of Health (Health). The Commissioner found that Health did not respond in the legislative timelines. He recommended that Health make changes to its process so that it is able to respond to access requests within the legislative timelines. He also recommended that Health refund the Applicant's deposits and waive the remainder of the fees given the excessive delays. Finally, the Commissioner recommended Health focus as many resources as necessary into its Health Information and Privacy Unit so that it can respond to the Applicant's access requests within seven days.

I BACKGROUND

- [1] On June 21, 2017, the Ministry of Health (Health) received seven access to information requests from the Applicant.
- [2] On July 12, 2017, Health notified the Applicant that it was extending the response time by 30 additional days pursuant to subsection 12(1)(a)(i) and (ii) of *The Freedom of Information and Protection of Privacy Act* (FOIP).
- [3] On August 8, 2017, the Ministry provided seven fee estimates to the Applicant. Health requested the Applicant pay 50 per cent of the fee estimate.

- [4] The Applicant paid the 50 per cent deposit which was received by Health on August 27, 2017. The deposit totaled \$2400. On September 25, 2017, the Applicant e-mailed Health to inquire about the status of his requests. Health indicated that it was waiting on the Applicant's 50 per cent deposit. The Applicant let Health know he had already paid the deposit. The Health Information and Privacy Unit had not been informed by the Financial Services Branch that the deposit had been received.
- [5] On December 18, 2017, when the Applicant had not yet received the records from Health, he requested a review by my office. On December 19, 2017, my office provided notification of my intention to undertake a review to both Health and the Applicant.
- [6] On January 29, 2018, Health responded to one of the Applicant's seven access requests. The response came 222 days after the Applicant made the access request.

II DISCUSSION OF THE ISSUES

- [7] Health qualifies as a government institution pursuant to subsection 2(1)(d)(i) of FOIP.

1. Did Health respond to the Applicant within 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:

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

[9] Section 12 of FOIP enables government institutions to extend the 30 days prescribed in subsection 7(2) for a reasonable period not exceeding 30 days. Section 12 provides:

12(1) The head of a government institution may extend the period set out in section 7 or 11 for a reasonable period not exceeding 30 days:

(a) where:

(i) the application is for access to a large number of records or necessitates a search through a large number of records; or

(ii) there is a large number of requests; and completing the work within the original period would unreasonably interfere with the operations of the government institution;

(b) where consultations that are necessary to comply with the application cannot reasonably be completed within the original period; or

(c) where a third party notice is required to be given pursuant to subsection 34(1).

[10] Based on the information, 180 days passed between the day Health received the Applicant's request and the day the Applicant requested a review by my office. Health has not yet responded to six of the access requests as of the date of this report, adding an additional 44 days.

[11] Since I have started my role as Information and Privacy Commissioner in July 2014, I have issued 15 review reports discussing 33 access requests where Health did not meet the legislated timelines.

[12] I recommend that Health make changes to its processes that would ensure that it responds to access requests within the legislated timeframe.

[13] I recommend that Health focus as many resources as necessary into the Health Information and Privacy Unit so that it can respond to the Applicant's six remaining access requests within seven days.

[14] In the past, my office has recommended that public bodies waive any fees and refund deposits when there have been excessive delays (Review Reports 231-2016 to 233-2016 and 263-2016 to 268-2016). I recommend Health refund the Applicant's deposits for all seven access requests and waive the remainder fees.

III FINDING

[15] I find that Health has not met the legislative timelines for the Applicant's seven access requests.

IV RECOMMENDATIONS

[16] I recommend that Health make changes to its processes that would ensure that it responds to access requests within the legislated timeframe.

[17] I recommend that Health focus as many resources as necessary into the Health Information and Privacy Unit so that it can respond to the Applicant's six remaining access requests within seven days.

[18] I recommend Health refund the Applicant's deposits for all seven access requests and waive the remainder fees.

Dated at Regina, in the Province of Saskatchewan, this 31st day of January, 2018.

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