Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 343-2025 (Part I)[1]

Ministry of Social Services

December 17, 2025

Summary: The Ministry of Social Services (Ministry) raised two preliminary matters for consideration: (1) whether it properly deemed the Applicant's access request of July 17, 2025 as abandoned pursuant to section 7.1(1) (applications deemed abandoned) of *The Freedom of Information and Protection of Privacy Act* (*FOIP*); and (2) whether the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) procedurally erred in not providing "immediate" notice, thereby affecting the ability of the Ministry to deem the Applicant's request abandoned pursuant to section 7.1(1) of *FOIP*.

The Commissioner concluded that the Ministry did not meet the requirements to issue a notice of abandonment to the Applicant pursuant to section 7.1(1) of *FOIP,* and as such, it was premature and is declared a nullity.

The October 31, 2025 OIPC notice of review was issued *immediately* once OIPC had gathered sufficient information to decide there were sufficient grounds and that it had jurisdiction to conduct a review of the fee estimate pursuant to section 51 (notice of intention to investigate or review) of *FOIP*.

Since the notice of abandonment issued by the Ministry is a nullity, the Applicant's request for a review of the fee estimate issued by the Ministry will continue as originally set out in the OIPC notice of review.

I BACKGROUND

[1] For the purposes of considering this preliminary matter, OIPC is issuing this decision under file number 343-2025. Review Report 214-2025, 343-2025 (Part II), which is a review of the Ministry's fee estimate, will follow.

[1] The Applicant submitted a three-part access request to the Ministry of Social Services (Ministry), which the Ministry received on July 17, 2025. The access request read as follows:

> …we request copies of the following records from the Saskatchewan Ministry of Social Services (the "MSS") for the period from January 1, 1993 to present:
>
> 1. financial records of the total amount of special allowances paid to the MSS each month pursuant to sections 3 and 4 of the *Children's Special Allowances Act*, SC 1992, c 48 (the "*CSA Act*"), whether paid directly by the Canada Revenue Agency to the MSS or remitted from another agency or institution to the MSS;
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> 2. financial records of how the MSS treated these special allowances in its accounting once received, including but not limited to accounting policies, budgets, and financial reporting;
>
> 3. correspondence, policies, procedures, and memoranda with respect to how the MSS was to, and did, apply these special allowances toward each child in respect of whom it was paid pursuant to section 3 of the *CSA Act*;
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> To the extent that the above requests for records may be addressed sufficiently with only a single record or a few records rather than a broader set of documents which contain the same information, please defer to providing fewer records where possible.

[2] By letter dated July 25, 2025, the Ministry provided the Applicant with a fee estimate in the amount of $14,890. The Ministry advised it would begin processing the Applicant's request if the Applicant paid the required 50% deposit of $7,445. The Ministry also offered to work with the Applicant to modify the request to reduce the fee. In this same letter the Ministry incorrectly advised the Applicant that if there was no response by August 23, 2025, the access request would be considered "abandoned" pursuant to section 7.1 of *The Freedom of Information and Protection of Privacy Act* (*FOIP*).[2] This error formed the first issue that will be addressed in this Preliminary Decision since section 7.1 of *FOIP* references notice pursuant to section 7(2)(a) of *FOIP* prior to any legal consideration of abandonment and, as we shall see, this matter had not progressed to the point of a "prescribed fee" such that section 7(2)(a) of *FOIP* or the issue of abandonment could be

[2] *The Freedom of Information and Protection of Privacy Act,* SS 1990-91, c. F-22.01, as amended.

triggered in any meaningful way. In essence, the Ministry had procedurally "jumped the gun".

[3] The Applicant emailed the Ministry on August 18, 2025 and signaled their intent to narrow their request, and provided the Ministry with a written confirmation clarifying the request on August 19, 2025. The clarification involved a slight change of the wording in the last part of the access request.

[4] The Ministry advised the Applicant by letter dated August 20, 2025 that the change in wording had not affected the parameters of their request, and upfront payment of 50% of the estimate of $14, 890 was still required prior to proceeding with the processing of the access request.

[5] The Applicant considered this matter until September 2, 2025, at which point they contacted the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) and asked for a review the fee estimate issued by the Ministry. At that time an OIPC Intake Officer conducted a preliminary review of the Applicant's situation. That review included interviewing the Applicant on several occasions in an effort to ascertain the facts of the matter and to determine the relevant documentation. One of the primary pursuits of an Intake Officer in a fee dispute situation is to ensure that this office possesses the proper statutory jurisdiction to proceed and whether there are grounds for a review. The Intake Officer will then make every effort to discuss the possibility of an early resolution with the Applicant and determine whether this is a feasible course of action. The work of an Intake Officer as this stage of a fee review is set out in Part 2-2 of the OIPC *Rules of Procedure* (*Rules*) and section 46 of *FOIP* mandates complete confidentiality in all discussions with an applicant.

[6] On September 22, 2025, the Ministry issued a notice of abandonment of the matter to the Applicant pursuant to section 7.1 of *FOIP* on the grounds that there had been no engagement on the part of the Applicant since the date of the final fee estimate, August 20, 2025. For unknown reasons, even though the Applicant had engaged in several discussions

with the OIPC Intake Officer by this point, the Applicant did not share the issue of the notice of abandonment with this office.

[7] Having concluded that an early resolution might be possible, the OIPC Intake Officer contacted the Ministry on October 7, 2025 in an effort to engage on the fee estimate and perhaps seek an early resolution. The OIPC Intake Officer requested further documentation from the Ministry and attempted to initiate discussions with respect to a reconsideration of the fee estimate. The Ministry was unwilling to discuss the fee estimate with the OIPC Intake Officer further. The Ministry also said nothing with respect to the notice of abandonment issue. At this point, this office was functioning in a vacuum with respect to the notice of abandonment.

[8] On October 17, 2025, the Applicant was advised by this office that the Ministry would not budge on the fee estimate and the Applicant requested OIPC proceed with a formal review of the fee estimate. On this same day, this office received relevant documentation from the Ministry, and among this tranche of materials was the section 7.1(1) *FOIP* notice of abandonment that had been served on the Applicant in September.

[9] On October 24, 2025, the full scope of the fee estimate review was confirmed with the Applicant and conveyed to the Ministry. Further documentation was requested once again from the Ministry. At this time, OIPC advised the Ministry that if the matter was not resolved informally, OIPC may issue a public report.

[10] On October 31, 2025, this office had completed its initial review of the matter with both sides of the fee dispute and all relevant documentation had been obtained. This office issued a formal notice of review of the fee estimate to the Applicant and the Ministry as per Part 2-3 of the *Rules*.

[11] By email on November 6, 2025, the Ministry advised this office that as the result of the fact that it had previously issued a notice of abandonment to the Applicant on September 22, 2025, and had received "no response" from the Applicant after the Ministry issued its

fee estimate on August 20, 2025, the matter was now one of a "threshold issue" that had to be determined prior to any consideration of the fee estimate issue.

[12] On November 10, 2025, the Ministry confirmed with this office that the notice of abandonment should be reviewed as a "threshold issue". By email dated November 10, 2025, OIPC provided notice to the Applicant and the Ministry to advise of the threshold issue or preliminary objection. Both parties were invited to provide submissions by November 24, 2025. Counsel for the Applicant provided written submissions on November 20, 2025. The Ministry asked for, and was granted, an extension of time to provide submissions on December 8, 2025. The Ministry requested that these submissions not be shared.

[13] A review of these submissions and the facts of this case mandate a discussion of the two main issues in this case:

1) What are the procedural requirements that must be met prior to the issuance of a notice of abandonment pursuant to section 7.1 of *FOIP*?

2) What is the meaning of "*immediate*" as it is used in section 51 of *FOIP*?

II ANALYSIS

1. What are the procedural requirements that must be met prior to the issuance of a notice of abandonment pursuant to section 7.1 of *FOIP*?

[14] When a government institution receives an access request, *FOIP* provides it with different options for responding depending on the circumstances. Options include:

(1) The issuance of a notice under section 7(2) of *FOIP* within 30 days of receiving the access request;

(2) The issuance of a fee estimate under section 9(2) of *FOIP* within 30 days of receiving the access request;

(3) The issuance of a notice of transfer of the access request within 15 days under section 11 of *FOIP*; or

> (4) The issuance of a notice of an extension of the time to respond by an additional 30 days under section 12 of *FOIP*.
>
> Each option lays out its own requirements and associated timelines that fall on either the government institution or the applicant.

[15] In this case, the Ministry issued a fee estimate to the Applicant, which engaged section 9(2) of *FOIP*. Section 9(3) of *FOIP* adds that where a fee estimate is provided, the time in which the head of the government institution is required to give written notice pursuant to section 7(2) of *FOIP* is suspended until the Applicant notifies the head that they wish to proceed with their application. Both these sections provide:

> **9**(2) Where the amount of fees to be paid by an applicant for access to records is greater than a prescribed amount, the head shall give the applicant a reasonable estimate of the amount, and the applicant shall not be required to pay an amount greater than the estimated amount.
>
> (3) Where an estimate is provided pursuant to subsection (2), the time within which the head is required to give written notice to the applicant pursuant to subsection 7(2) is suspended until the applicant notifies the head that the applicant wishes to proceed with the application.
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> [Emphasis added]

[16] The burden of establishing that it correctly invoked section 7.1(1) of *FOIP* rests with the Ministry. In its submission, the Ministry argued that section 7.1(1) of *FOIP* authorizes a government institution to deem a request abandoned where an Applicant does not respond to a fee estimate or does not take the steps required under *FOIP* within the prescribed period. The Ministry explicitly advised the Applicant that a response was required, and that failure to respond or remit payment could result in the request being deemed abandoned. Despite receiving a lawful fee estimate and clear notice of the required steps, the Applicant did not respond to the Ministry at any time between the issuance of the fee estimate on August 20, 2025 and September 22, 2025, the date on which the Ministry deemed the request abandoned. No communication of any nature was received from the Applicant during this period, nor was any fee payment made. In these circumstances, the Ministry believed, incorrectly, that it was authorized under section 7.1 of *FOIP* to deem the request

abandoned, as the statutory conditions had been met and the prescribed period had elapsed without any engagement from the Applicant.

[17] Even though the Ministry's submission contained an excellent recitation of the caselaw and principles associated with procedural fairness, the Ministry was incorrect to argue that the statutory conditions were met for an abandonment of the Applicant's access request. This Preliminary Decision hopes to give guidance on the interaction between sections 7(2)(a), 7.1 and 9 of *FOIP*.

[18] The purpose of issuing a fee estimate is to advise an applicant that responding to an access request will involve a significant number of records, which in turn will require time to search, and prepare the record, for disclosure.[3] At this stage, the government institution will have only estimated the volume of records based on the parameters of the applicant's request, and calculated its estimated fee based on this volume. The government institution must convey the estimated fee, within 30 days of receiving the request, to the applicant pursuant to section 9(2) of *FOIP*. This gives the applicant an opportunity to consider whether they want to pay the deposit, or if they will instead consider narrowing the scope of their request to reduce the estimated fee.

[19] In this matter, the Ministry received the Applicant's request on July 17, 2025, meaning that the fee estimate had to be issued within 30 days of July 17th to meet the requirements of section 9(2) of *FOIP*. Because the 30-day timeline fell on a Saturday, the final date for a Ministry response was moved to the following business day, Monday, August 18, 2025.[4] In fact, the Ministry issued its fee estimate to the Applicant on July 25, 2025, well within the required 30 days.

[3] OIPC Review Report 074-2025 at paragraph [28].

[4] The computation of time is set out at section 2-28 of *The Legislation Act, SS 2019*, c. L-10.2, as amended.

[20] Once a fee estimate is given pursuant to section 9(2) of *FOIP*, section 9(3) of *FOIP* suspends the processing time on the part of the government institution.[5] In this case, July 25, 2025 was the date that the time suspended for the Ministry because that was the date the Ministry provided the Applicant with the fee estimate. Notably, section 9(3) of *FOIP does not place a time limit in which an applicant is required to respond to the government institution regarding the fee estimate*. That is, once an applicant receives a fee estimate, it is up to them to determine how they wish to proceed. One option is to ask the Commissioner, under section 49(1)(a.1) of *FOIP*, to review the fee estimate issued by a government institution.[6] The Applicant must make this request to the Commissioner *within one year* under section 49(2) of *FOIP*. These provisions state:

> **49**(1) Where:
>
> …
> (a.1) an applicant is not satisfied that a reasonable fee was estimated pursuant to subsection 9(2);
>
> …
> (2) An applicant or individual may make an application pursuant to subsection (1) within one year after being given written notice of the decision of the head or of the expiration of the time mentioned in clause (1)(b).

[21] In this case, the Applicant made some efforts to narrow their request on August 19, 2025, and the Ministry rejected these efforts. The Applicant exercised their right to ask this office to undertake a review of the September 2, 2025 fee estimate issued by the Ministry. The Applicant exercised this right within the year as set out in section 49(2) of *FOIP*.

[22] Once the issue of the fee estimate is resolved,[7] the timeline for the Ministry to continue processing the access request and issue its section 7 decision then resumes. The Ministry provided its fee estimate on day 8 of the timeline in this case, and so it will have 22 days

[5] OIPC Review Report 033-2018 at paragraph [10].

[6] OIPC Review Report 136-2022 at paragraph [49].

[7] Either the Applicant has either worked with the Ministry to reduce the estimated fee or paid the deposit.

after the fee estimate issue is resolved to continue processing the Applicant's access request and issue its section 7 decision. Once the fee estimate issue is resolved, *and only then*, may the Ministry resort to the response outlined in section 7(2)(a) of *FOIP*, which states:

> **7**(2) The head shall give written notice to the applicant within 30 days after the application is made:
>
> > (a) stating that access to the record or part of it will be given on payment of the prescribed fee and setting out the place where, or manner in which, access will be available;

[23] If the Applicant does nothing further after receiving section 7(2)(a) *FOIP* notice from the Ministry, only at that time can the Ministry issue a notice of abandonment pursuant to section 7.1(1) of *FOIP* once the 30-day timeline has elapsed. This section states:

> **7.1**(1) If the head has invited the applicant to supply additional details pursuant to subsection 6(3) or has given the applicant notice pursuant to clause 7(2)(a) and the applicant does not respond within 30 days after receiving the invitation or notice, the application is deemed to be abandoned.
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> [Emphasis added]

[24] In conclusion, section 7.1(1) of *FOIP can only* be invoked by a government institution in two circumstances: (1) if the head has asked for additional details pursuant to section 6(3) of *FOIP* because they cannot identify the responsive record and the applicant does not supply those details within the 30 days; or (2) if the head has given notice pursuant to section 7(2)(a) of *FOIP* and the applicant does not respond within the 30 days. Section 7(2)(a) can only be invoked upon notifying the applicant that access to the record, or part of it, will be given *on the payment of the prescribed fee* – not during a dispute over a fee estimate issued pursuant to section 9(2) of *FOIP*. We wish to make it clear, a "fee estimate" is not the same thing as the "prescribed fee".

[25] In this matter, the Applicant chose to request a review by OIPC rather than pay the deposit. The time for the Ministry to continue processing the access request remains suspended until the fee estimate issue is resolved. The Ministry was not yet able to issue a notice pursuant to section 7(2) of *FOIP,* and so the Ministry did not meet the requirements to

issue a notice of abandonment to the Applicant pursuant to section 7.1(1) of *FOIP*. The section 7.1(1) *FOIP* notice in this case was premature and is declared a nullity.[8]

2. What is the meaning of "*immediate*" as it is used in section 51 of *FOIP*?

[26] The second issue focusses on the timing of OIPC's notice of review of the fee estimate review to the Ministry. The Ministry maintained that the absence of timely notification from the OIPC regarding the initiation of a review affected its ability to deem a request abandoned under section 7.1 of *FOIP*. The position of the Ministry is that it issued its notice of abandonment to the Applicant on September 22, 2025, and only received a first indication of a request for review from this office on October 7, 2025 and a formal notice of review on October 31, 2025. The Ministry's position is that the Applicant contacted OIPC on September 2nd, 2025 and this is the date from which "immediate" notice should have been given pursuant to section 51 of *FOIP*. The Ministry fairly submitted that "immediate" is not akin to instantaneous action. Still, it alleges that learning of a review of a fee request some five weeks after its initiation[9] was procedurally unfair and as such, the notice of abandonment should stand. The Ministry submits effectively that the procedural irregularity and unfairness on the part of the regulator removes OIPC jurisdiction for this matter to proceed.

[27] In considering the Ministry's submission, the following timeline is reproduced below:

Date in 2025	Event
July 17	Applicant filed an access request with the Ministry.

[8] For examples of other instances where OIPC considered if a government institution prematurely issued a notice of abandonment pursuant to section 7.1 of *FOIP*, see OIPC Review Report 136-2022 and Review Report 110-2022. OIPC also considered the equivalent of section 7.1(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* in Review Report 302-2018 et al.

[9] The written submission from the Ministry conceded that notice on October 7th was sufficient first notice on the part of this office. Hence the alleged five week delay from September 2nd to October 7th.

July 25	Ministry issued a first fee estimate.
August 19	Applicant revised access request and conveyed to Ministry.
August 20	Ministry set fee estimate at $14, 890.00.
September 2	Applicant applied to OIPC for a review the Ministry's fee estimate.
September 2	OIPC commenced to work with the Applicant as set out in Part 2-2 of the OIPC *Rules of Procedure* to determine jurisdiction to proceed.
September 22	Ministry issued a notice of abandonment to the Applicant pursuant to section 7.1(1) of *FOIP*.
October 7	OIPC notified the Ministry regarding the Applicant's request for review of the fee estimate. OIPC indicated that it hoped to seek early resolution. On this date, the Ministry confirmed that it would not reconsider its fee estimate.
October 17	OIPC advised the Applicant that the Ministry was not willing to reconsider its fee estimate, and the Applicant responded the same date that they wished to continue with a review of the fee estimate.
October 24	OIPC confirmed the scope of the review with the Applicant. Also on the same date, OIPC advised the Ministry that OIPC would be reviewing the fee estimate and asked the Ministry to provide documentation.
October 31	OIPC issued its formal notice of review to the Applicant and to the Ministry as per Part 2-3 of the *Rules*.

[28] As noted earlier, when the Ministry issued a fee estimate pursuant to section 9(2) of *FOIP* on August 20, 2025, the timeline for the Ministry to respond to the Applicant's access request was formally suspended. The Applicant had within a year of receiving the fee estimate to consult the Commissioner, pursuant to section 49(2) of *FOIP*, to review the fee estimate. The Applicant exercised this right on September 2, 2025.

[29] When an applicant requests that the Commissioner review a decision of the head, OIPC *Rules* set out the following duties and obligations that are undertaken by this office in Part 2-1 to 2-3:[10]

> **2-1 Request for Review**
> (1) A request for a review may be made in the prescribed form and may be filed with the commissioner's office by email, regular mail, courier or personal delivery.
>
> (2) Once contact is made pursuant to subsection (1), the commissioner's office will advise the applicant of any additional information required to support a review and the applicant will have 30 days, unless the commissioner determines otherwise, to provide that additional information. If the information is not provided in that time, the review will not continue unless the commissioner determines there are unique circumstances.
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> **2-2 Early Resolution**
> Before commencing a review, if a third party is involved, the commissioner's office will ask the public body for third party contact information and request that the public body immediately give notice of review to any affected third parties pursuant to section 52 of FOIP or section 41 of LA FOIP. Once all the parties are identified, the commissioner's office may attempt to resolve the matter by entering into discussions with the applicant, public body and any third party.
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> **2-3 Notice of Review**
> After the commissioner's office determines that a matter cannot be resolved and the commissioner determines that a review will be undertaken of the head's decision under FOIP/LA FOIP, the commissioner's office will prepare a notice indicating that a review of the head's decision will be undertaken. Notices will be forwarded electronically or by other means to the public body, the applicant and any engaged third parties.
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> [Emphasis added]

[30] On October 7, 2025, with the telephone call from the OIPC Intake Officer, this office effectively signaled to the Ministry that a review of the fee estimate was a real possibility. On October 24, 2025 OIPC also contacted the Ministry and indicated that a formal review was likely to commence. OIPC gave formal notice of the fee estimate review to the Ministry seven days later. OIPC was not obliged to advise the Ministry of a pending review

[10] Section 45(2)(d) of *FOIP* sets out that the Commissioner may determine what procedures are to be followed in the exercise of the Commissioner's duties.

until, procedurally, it determined there were sufficient grounds and jurisdiction to do so which is what is anticipated in section 51 of *FOIP*:

> **Notice of intention to investigate or review**
> **51** The commissioner shall, immediately on commencing an investigation or review, inform the head of
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> (a) the commissioner's intention to conduct an investigation or review; and
>
> (b) the substance of the investigation or application for review

[31] In the time leading to October 31, 2025, both the Applicant and the Ministry were asked to provide the necessary information and documentation. Issuing an "immediate" notice of a review to the Ministry as soon as the Applicant submitted a request for review to the Ministry on September 2, 2025, would have been not only premature but impossible because the grounds and jurisdiction to do so had not yet been established. Section 51(1) of *FOIP* requires this office to not only give notice of the review but also to give particulars with respect to the substance of the review. Such detail would be impossible without the time to fully obtain and assimilate the material from both parties in this fee estimate issue.

[32] The October 31, 2025 OIPC notice of review was issued *immediately* once OIPC had gathered sufficient information to decide there was sufficient grounds and jurisdiction to conduct a review of the fee estimate pursuant to section 51 of *FOIP*.

[33] The Applicant's request for review of the fee estimate issued by the Ministry continues as set out in the October 31, 2025 notice of review.

III DECISIONS

[34] The Ministry did not meet the requirements to issue a notice of abandonment to the Applicant pursuant to section 7.1(1) of *FOIP*, and as such, it is declared a nullity.

[35] The October 31, 2025 OIPC notice of review was issued *immediately* once OIPC had gathered sufficient information to decide there was sufficient grounds and jurisdiction to conduct a review of the fee estimate pursuant to section 51 of *FOIP*.

[36] The Applicant's request for a review of the Ministry's fee estimate continues as set out in the October 31, 2025 notice of review.

Dated at Regina, in the Province of Saskatchewan, this 17th day of December 2025.

Grace Hession David
Saskatchewan Information and Privacy Commissioner