



## **REVIEW REPORT 009-2017**

### **Town of Kindersley**

**March 13, 2017**

**Summary:** The Applicant submitted an access to information request to the Town of Kindersley (the Town). In its response, the Town advised the Applicant that the records were ready to be picked up and that the total fee amount was \$52.50. The Applicant appealed to the Office of the Information and Privacy Commissioner (IPC) because a fee estimate was not issued to him. The IPC found that the Town should have issued a fee estimate. However, its offer to reduce the fee to \$50 was a reasonable solution to resolving this issue.

### **I BACKGROUND**

[1] On December 20, 2016, the Applicant submitted the following access to information request to the Town of Kindersley (the Town):

Copy of the town of kindersley [sic] General Ledger accounts lists and updated lists between 2012 to 2016 detailing the general ledger accounts and or [sic] description.

[2] In a letter dated January 16, 2017, the Town responded to the Applicant. It advised the Applicant the records were ready for pick up at the Town office and that the total fee was \$52.50. It also included a breakdown of how it calculated its fee.

[3] On January 19, 2017, the Applicant requested a review by my office. He indicated that a fee estimate was not previously issued to him by the Town. He wished for my office to review the fee being charged by the Town.

[4] On January 19, 2017, my office notified both the Town and the Applicant that it would be undertaking a review.

## **II RECORDS AT ISSUE**

[5] There are no records at issue.

## **III DISCUSSION OF THE ISSUES**

[6] The Town qualifies as a “local authority” as defined by subsection 2(f)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

### **1. Should the Town have issued a fee estimate?**

[7] Subsection 9(2) of LA FOIP provides that a fee estimate is to be issued if the fee to be paid by an applicant is greater than the prescribed amount. It provides:

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.

[8] The prescribed amount is \$50, as provided in subsection 6(1) of the LA FOIP Regulations:

6(1) For the purposes of subsection 9(2) of the Act, the amount of fees beyond which an estimate must be given by the head is \$50 in excess of the fee set out in subsection 5(1).

[9] The Town’s letter dated January 16, 2017 provided that the total fee to be paid by the Applicant is \$52.50. That is an amount greater than \$50. Therefore, the Town should have issued a fee estimate to the Applicant pursuant to subsection 9(2) of LA FOIP.

[10] In its submission, the Town explained that when it initially began its processing of the access to information request, it believed that there would not have been a significant number of records and that the fees would not exceed \$50. Once the processing of the

request was complete, the Town realized the fee would be \$52.50. It said that if seeking the additional \$2.50 without issuing a fee estimate is deemed offside, then it would agree to reduce the fee to \$50.

[11] I find that the Town should have issued a fee estimate to the Applicant. However, its offer to reduce the fee to \$50 is a reasonable solution to resolving this issue.

[12] Even though I found the Town should have issued a fee estimate, I acknowledge that the Town searched and prepared the responsive records promptly for the Applicant. Had the Town issued a fee estimate soon after it received the Applicant's access to information request, then the Town would have stopped its processing of the request until the Applicant had responded. This would have meant a delay in the Applicant receiving the records he is seeking.

[13] My office encourages local authorities and government institutions to keep in close, direct contact with applicants while processing access to information requests. Similarly, applicants should respond quickly to correspondence from local authorities and government institutions. Such contact can potentially resolve issues as described in this review while ensuring applicants still receive the records he or she is seeking. I note issues may not be always resolved through such contact and applicants still have the right to request a review by my office.

#### **IV FINDING**

[14] I find that the Town should have issued a fee estimate to the Applicant.

#### **V RECOMMENDATION**

[15] I recommend that the Town follow through with its offer to reduce the fee to \$50 and re-issue a response to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 13th day of March, 2017.

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