

SASKATCHEWAN
OFFICE OF THE
INFORMATION AND PRIVACY COMMISSIONER

REVIEW REPORT LA-2013-004

Northern Village of Pinehouse

Summary:

This Review Report relates to two reviews commenced by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) on or about June 24, 2013. The Northern Village of Pinehouse (the Village) received two formal access to information requests from the Applicant dated April 2, 2013 and April 16, 2013 respectively. The requests were detailed, clear and conformed to the prescribed form for making an access to information request. By a letter dated June 6, 2013, the Village responded to those access requests. The Village referred the Applicant to the website of a third party and represented that certain other records sought by the Applicant were on the Village's website. However, the representations by the Village to the Applicant were apparently inaccurate. On June 24, 2013, the OIPC wrote to the Mayor as "head" of the Village for purposes of *The Local Authority Freedom of Information and Protection of Privacy Act* advising that the response of the Village was inadequate. When no adequate response was forthcoming, the matter was then escalated to the Commissioner, consistent with this office's procedure for an expedited review. No remedial action was taken. On September 9, 2013, the Commissioner wrote to the Mayor advising that he would be issuing a Review Report addressing the procedural defect.

Statutes Cited:

The Local Authority Freedom of Information and Protection of Privacy Act, S.S. 1990-91, c. L-27.1, ss. 2(e)(i), 2(f)(i), 7, 12, 50, 56(3).

I BACKGROUND

- [1] The Northern Village of Pinehouse (the Village) received two formal access to information requests from the Applicant dated April 2, 2013 and April 16, 2013 respectively.
- [2] The requests were detailed, clear and conformed to the prescribed form for making an access to information request. By a letter dated June 6, 2013, the Village responded to those access requests. The Village referred the Applicant to the website of a third party for some records and represented that certain other records sought by the Applicant were on the Village's website. The representations by the Village to the Applicant were, however, apparently inaccurate.
- [3] On May 21, 2013, the Applicant submitted to the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) a request for review in respect of each of the two applications for access.
- [4] On or about June 24, 2013, my office notified the Mayor, as "head" of the Village for purposes of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP),¹ that reviews would be undertaken and invited the Mayor to raise any preliminary issues as to our jurisdiction or any other reason why the reviews should not proceed.
- [5] The Mayor was advised by my office that the Village's response was inadequate and that this matter would be escalated to me if the Village did not remedy the defects in its section 7 response.
- [6] My office communicated with the Administrator and the Mayor of the Village to explain what was required of the Village and referred the Village to a number of resources

¹*The Local Authority Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. L-27.1 at section 2(e)(i).

available on our website and another website that explained the requirements for the Village when responding to an access request under LA FOIP.

[7] When no remedial action was taken by the Village, this matter was then internally escalated to me from my Intake Officer, consistent with our procedure for an expedited review.

[8] On or about September 9, 2013, I wrote to the Mayor advising that I would be issuing a Report addressing the procedural defect.

II RECORDS AT ISSUE

[9] No record has been provided to my office by the Village.

[10] The immediate issue is the preliminary matter that the Village has not provided proper section 7 responses to the Applicant. Furthermore, after this was brought to the attention of both the Mayor and the Administrator, to my knowledge, the defects have not been remedied.

III ISSUES

- 1. Did the Northern Village of Pinehouse fail to provide a proper section 7 response to the Applicant?**
- 2. Did the Northern Village of Pinehouse fail to comply with a lawful requirement of the Commissioner?**

IV DISCUSSION OF THE ISSUES

[11] As the Village is a municipality, it is a “local authority” for purposes of LA FOIP as follows:

2 In this Act:

...

(f) “local authority” means:

(i) a municipality;

...

1. Did the Northern Village of Pinehouse fail to provide a proper section 7 response to the Applicant?

[12] Sections 7 and 12 of LA FOIP provide as follows:

7(1) Where an application is made pursuant to this Act for access to a record, the head of the local authority to which the application is made shall:

(a) consider the application and give written notice to the applicant of the head’s decision with respect to the application in accordance with subsection (2); or

(b) transfer the application to another local authority or to a government institution in accordance with section 11.

(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;

(b) if the record requested is published, referring the applicant to the publication;

(c) if the record is to be published within 90 days, informing the applicant of that fact and of the approximate date of publication;

(d) stating that access is refused, setting out the reason for the refusal and identifying the specific provision of this Act on which the refusal is based;

(e) stating that access is refused for the reason that the record does not exist;
or

(f) stating that confirmation or denial of the existence of the record is refused pursuant to subsection (4).

(3) A notice given pursuant to subsection (2) is to state that the applicant may request a review by the commissioner within one year after the notice is given.

(4) Where an application is made with respect to a record that is exempt from access pursuant to this Act, the head may refuse to confirm or deny that the record exists or ever did exist.

(5) A head who fails to give notice pursuant to subsection (2) is deemed to have given notice, on the last day of the period set out in that subsection, of a decision to refuse to give access to the record.

...

12(1) The head of a local authority 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 local authority;

(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 33(1).

(2) A head who extends a period pursuant to subsection (1) shall give notice of the extension to the applicant within 30 days after the application is made.

(3) Within the period of extension, the head shall give written notice to the applicant in accordance with section 7.

[13] It is often said that information delayed is information denied. One of the major problems with access to information regimes across Canada is delay in providing applicants with access to public records. The time limits set out in LA FOIP have not changed since it was proclaimed in 1993 and continue to be 30 days from the date the local authority receives the request for access. There is provision in limited circumstances for extending that 30 day period for an additional 30 days but that requires notification to the Applicant of the extension within the first 30 days after the request is received.

[14] My office was advised by the Applicant that she received no adequate response from the Village, pursuant to section 7 of LA FOIP, to either of her requests for access. The Applicant advised that she did receive a letter from the Village dated June 6, 2013, which was 51 days after receipt of the Applicant's second request.

[15] The Village's letter dated June 6, 2013 was signed by the Administrator. She advised the Applicant as follows:

- Certain documents were available at two different websites. This was a website for the Village and another website for a third party. The website addresses were provided. The Village advised the Applicant that one of the documents was 400 pages and it would save the Village time and money if it was printed by the Applicant;
- Financial statements for the Village for 2010 and 2011 were on the Village website; and
- The Village would like an extension without any explanation and apparent consideration of what is contemplated by section 12 of LA FOIP.

[16] Although, as noted earlier, the Mayor of a municipality is the "head" for purposes of LA FOIP, the head may delegate, in writing pursuant to section 50 of LA FOIP, one or more officers of the local authority a power vested in the head. Such a delegation to the Administrator would allow our office to deal directly with the Administrator, but absent such a delegation we are required to deal with the Mayor. We requested but did not receive a copy of any such delegation from the Village.

[17] At that point, my office contacted the Administrator and explained what was required of the Village and referred the Administrator to a number of resources that could assist them. In an email from my office to the Administrator on July 17, 2013, we advised the Administrator in part:

...

I also gave you the contact information for the Ministry of Justice, Access and Privacy branch who's [sic] mandate it is to train and assist government institutions and local authorities with instructions on how to process access to information requests. The contact information is:

Ministry of Justice
Access and Privacy Branch
1020 - 1874 Scarth Street,
Regina, SK
S4P 4B3

Phone: 306-787-5473

Website: <http://www.justice.gov.sk.ca/accessandprivacy>

Email: accessprivacyjustice@gov.sk.ca

You asked about resources that were available to help new FOIP coordinators with Access to Information Requests and how to handle them.

I am including links to the following:

Fees, Estimates and Waivers (presentation by the Saskatchewan Information and Privacy Commissioner's office) - <http://www.oipc.sk.ca/Presentations/OIPC%20BBL%20Fees%20April%2029%202009.pdf>

Helpful Tips: Best Practices for Public Bodies/Trustees for the Processing of Access Requests - <http://www.oipc.sk.ca/Resources/Helpful%20Tips%20-%20Best%20Practices%20for%20Public%20Bodies%20+%20Trustees%20for%20the%20Processing%20of%20Access%20Requests%20-%20September%202010.pdf>

Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review - <http://www.oipc.sk.ca/Resources/Helpful%20Tips%20-%20Guidelines%20for%20Public%20Bodies%20+%20Trustees%20in%20Preparing%20for%20Review%20-%20September%202010.pdf>

Model (template) Letters under LA FOIP (Ministry of Justice, Access and Privacy Branch) - <http://www.justice.gov.sk.ca/Model-Letters-LAFOIP>

In the Door, Out the Door (presentation by the Ministry of Justice, Access and Privacy Branch) - <http://www.justice.gov.sk.ca/A-P-WP>

I hope the above is helpful to you. If you have any further questions, please do not hesitate to contact me and I will put you through to a Portfolio Officer that can help you with your specific questions regarding the records. I look forward to receiving your section 7 response to the applicant by July 24, 2013.

[18] We contacted the Applicant who advised as follows:

- The document referenced by the Village on the website was only 63 pages long and did not appear to be the entire document; and

- The financial statements could not be located on the Village website.²

[19] It is clear that the letter from the Administrator in the June 6, 2013 letter to the Applicant does not qualify as a proper section 7 response for a variety of reasons. The Village is required to account for responsive records in its possession or control and can only deny access to all or part of the responsive record if permitted by the limited and specific exemptions in Part III of LA FOIP. In the June 6, 2013 letter from the Village, there is no reference to any exemption. There is a clear process in section 12 of LA FOIP for an extension of time including when that may be appropriate and how to go about invoking that process. I find that section 12 of LA FOIP is not engaged on these facts. Even if it were, our reviews were commenced more than 60 days after the Village received the second of the two access requests.³ In fact, the time elapsed since the original requests for access were provided to the Village is now more than 200 days.

[20] I find that the Village is in contravention of LA FOIP as it failed to provide proper section 7 responses to the Applicant.

2. Did the Northern Village of Pinehouse fail to comply with a lawful requirement of the Commissioner?

[21] The facts raise the question of legal obligations by the Village. I recognize the apparent unfamiliarity with LA FOIP on the part of the Village, Mayor and Administrator. I however, note that even after my office provided information about those legal obligations and referred the Village to a number of resources to assist them in their compliance efforts, there was still non-compliance. The Village stopped communicating with my office.

[22] I am mindful that LA FOIP has an offence provision in section 56(3) that provides as follows:

²Summarized details from two emails sent from the Applicant to my office dated August 6 and August 7, 2013.

³The April 2 and April 16, 2013 applications were the subject of reviews, commenced on or about June 24, 2013.

56(3) Any person who:

(a) without lawful justification or excuse wilfully obstructs, hinders or resists the commissioner or any other person in the exercise of the powers, performance of the duties or the carrying out of the functions of the commissioner or other person pursuant to this Act;

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the commissioner or any other person pursuant to this Act; or

(c) wilfully makes any false statement to, or misleads or attempts to mislead, the commissioner or any other person in the exercise of the powers, performance of the duties or carrying out of the functions of the commissioner or other person pursuant to this Act;

is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000, to imprisonment for not more than three months or to both fine and imprisonment.

[23] On or about June 24, 2013, my office wrote to the Mayor, as head of the Village, to notify the Village that my office was undertaking formal reviews pursuant to Part VI of LA FOIP. My office advised the Mayor as follows:

The Applicant claims that she has not received a response to her access to information requests which she submitted more than 30 days ago. If the Northern Village of Pinehouse has not responded to the Applicant, the Village would be in contravention of section 7(2) of LA FOIP which requires the following: "...the head shall give written notice to the applicant within 30 days after the application is made..."

Our intention is to undertake a review pursuant to Part VI of *The Local Authority Freedom of Information and Protection of Privacy Act* (FOIP) [sic]. If you wish to raise any preliminary issues as to our jurisdiction to undertake the reviews, or if there is some other reason why the reviews should not proceed, we request that you advise us immediately. Otherwise our intention will be to proceed with the reviews. As we will be addressing these issues as a preliminary matter, we do not at this time require a copy of the records responsive to the Applicant's requests.

As per our procedures, these files have been designated for expedited treatment. If you have not already done so, we now request that you provide a full response to each of the Applicant's requests within 7 business days of receipt of this letter. If your responses are not issued to the Applicant, with a copy to our office within that time period, we will be requesting to meet with you and Council to clarify roles and responsibilities pertaining to LA FOIP. Allowing time for receipt by mail of this

letter, as well as receipt of your new response letters, your new response letters should be received by the Applicant and this office no later than July 11, 2013.

For further details on this procedure, we refer you to our January and June 2007, and January 2009 FOIP FOLIOs and pages 4 and 5 of our document entitled *Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review*. Both are accessible via our website, www.oipc.sk.ca under the Newsletters and the Resources tabs respectively.

If a response has been provided to the Applicant in the interim, please forward a copy of that response and any relevant correspondence on this matter. Once in receipt, we will review and then be in a better position to advise you further as to this file's disposition.

[24] In an email from the OIPC to the Administrator, my office advised in part:

We received the Requests for Review on May 21, 2013. I wrote to the Village of Pinehouse, specifically to the Mayor, [name of mayor] as he is the "head" of the local authority according to section 2(e) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) on June 24, 2013 stating that due to the fact that the Village of Pinehouse did not respond to the applicant within the 30 day deadline, we were expediting these files and we asked that you respond to the applicant on both requests by July 11, 2013. During our telephone conversation yesterday you stated that the Mayor did [sic] receive the mail until recently as he was away on holidays and that in future I should mail you directly. I mentioned to you that if the Mayor wants to delegate you as the "head" of the organization for purposes of LA FOIP he can do so but it must be in writing and you would need to keep the letter as proof that you have the authority to deal with Access to Information requests and alleged breaches of privacy on behalf of the Village of Pinehouse.

[25] I should clarify that the designation of the Mayor as "head" is a statutory provision designed to ensure accountability to the public. The Mayor has no power to designate someone else as the head, although he is permitted to delegate some or all of the duties to another by reason of section 50 of LA FOIP.

[26] On July 16, 2013, my office returned a phone call from the Village and spoke with the Village Administrator. My office explained the process for public bodies to respond to a formal access request. The Administrator was encouraged to become familiar with the process and advised her that it was essential that the Village respond immediately to the access requests as contemplated and required by section 7 of LA FOIP.

- [27] On July 17, 2013, we provided a lengthy email reviewing the legislative requirements and what the Village needed to do in terms of its response to the Applicant. My office also provided the Administrator with the contact information for the Ministry of Justice, Access and Privacy Branch and encouraged her to seek assistance from that Branch. The Village was requested to provide a proper section 7 response to the Applicant in respect of each of the two requests. In this email, my office also extended the Village's deadline to provide a compliant section 7 response from July 11, 2013 to July 24, 2013.
- [28] On July 31, 2013, our office called the Village and left a message for the Administrator to call back. No reply was received. Also, on August 7, 2013, my office sent an email to the Administrator referencing the July 24, 2013 deadline and inquiring as to the status of this matter.
- [29] Consistent with my office's expedited review process for procedural defects, I wrote to the Village on August 19, 2013 as follows:

I am writing you as the "head" of the Northern Village of Pinehouse for purposes of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

In this case two requests for access pursuant to Part II of LA FOIP were submitted to the Northern Village of Pinehouse on April 2, 2013 and April 16, 2013 by the Applicant, [name of Applicant]. Copies of the two requests are attached for your ease of reference.

My information is that the Northern Village of Pinehouse failed to respond in writing as required by section 7 of LA FOIP...

...

Our office brought that failure to the Northern Village of Pinehouse's attention on June 24, 2013 in a letter addressed to yourself. A copy is enclosed for your reference.

We have received no response as of this date.

The above is in accordance with our expedited review process described below in the excerpt from our document entitled *Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review*, which is available on my office's website www.oipc.sk.ca under the "Resources" tab:

A procedural defect occurs when a public body/trustee, in providing notice to an applicant, fails to meet one or more of the specific statutory requirements for this type of response. The OIPC has experienced a large volume of review files in which there are basic problems with compliance apart from any particular exemption. These procedural issues have historically been treated no differently than substantive issues related to the application of mandatory or discretionary exemptions. It is not uncommon that these files do not progress for a number of months because of delays in defining something as fundamental as which exemption the public body/trustee is relying on in denying access. There are then further delays of many months after the procedural defect has been cured but before the merits of the exemption have been resolved.

We have determined that these lengthy delays can be seen as rewarding public bodies/trustees that continue to deny access without having to meet the requirements in section 7 of [*The Freedom of Information and Protection of Privacy Act*] FOIP and LA FOIP, and section 36 of [*The Health Information Protection Act*] HIPA. Applicants, on the other than [sic], can be seen as being penalized by excessive delays in addressing the merits of the exemption(s) claimed. All of this brings the legislation into disrepute and undermines public confidence in FOIP, LA FOIP and HIPA.

Specified Procedural Defects

The OIPC utilizes an expedited process to deal with requests for review that involve a failure of public bodies/trustees to meet the statutory requirements as interpreted by the Commissioner including:

- No identification of the specific statutory authority for a decision¹
- No explanation of the reason for a decision²
- No explanation of the reason for extension³
- No notice of the right to request a review by the Commissioner⁴
- Severance that fails to meet the requirements of section 8⁵
- Deficient fee estimate⁶
- Failure to respond to fee waiver request⁷
- Deemed refusal (failure of a head/trustee to respond to a written request for access within the statutory time period)

1 OIPC Report F-2006-003 [22], [26], [27]

2 OIPC Report F-2006-003 [22], [26], [27]

3 OIPC Report F-2006-003 [40]; OIPC Report F-2006-005 [33]

4 See Section 7(3) FOIP and LA FOIP; section 36(1)(c)(ii) of HIPA

5 OIPC Report F-2006-003 [15], [19], [21], [24], [25], [28]

6 OIPC Report F-2005-005 [38], [71], [72], [73], [74], [75], [76]; F-2007-001 [57], [58]

7 OIPC Report F-2007-001 [19] to [26]

Expedited Review Process

The Expedited Review Process includes the following steps:

1. In any of these situations, the public body's FOIP or HIPA Officer/Coordinator will be promptly notified by the OIPC of the procedural defect in the public body's/trustee's response to the access request and that the Request for Review will be designated for expedited treatment.
2. If the defect is not remedied within 7 business days from the date that notice is provided to the FOIP/HIPA Coordinator, the Portfolio Officer will immediately refer the file to the Commissioner.
3. In that case, **the Commissioner will promptly notify** the Deputy Minister, CEO or **head of the public body/trustee of the procedural defect in the response to the access request.**

In addition to this process, our office may comment in our Annual Report specifically on problems identified with any particular organization in meeting procedural statutory requirements of FOIP, LA FOIP and HIPA.

This shall be notice to you that **in the event that you fail to rectify the deficiency and fail to provide the applicant with a proper section 7 response within the next 10 days, we will consider issuing a formal report.** The report will identify the public body, but will mask the name of the applicant, as is our customary practice.

...

[emphasis added]

[30] No response was received from the Village.

[31] Consequently, on September 9, 2013, I wrote to the Mayor as follows:

Further to my letter dated August 19, 2013, **I have received no response and the problems with your municipality's treatment of the access requests of April 2, 2013 and April 16, 2013 have not been resolved.**

I note that we notified you on June 24, 2013 that we were undertaking reviews into the failure of your municipality to respond as required by *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). We also emailed your Administrator on July 17, 2013 providing information and links to resources to assist you in complying with LA FOIP.

Compliance with LA FOIP and compliance in a timely way is a serious matter. **It is an offence to “without lawful justification or excuse”, refuse or wilfully fail to comply with any lawful requirement of the commissioner.**

Since almost 5 months have elapsed since the Northern Village of Pinehouse received the original access requests and your municipality has not yet addressed the problems identified in our earlier correspondence, this shall be notice that we will proceed to issue a public report that will identify your municipality and describe the failure of your municipality to meet its statutory obligations.

We will be also pursuing other statutory remedies for your non-compliance.

...

[emphasis added]

[32] There has been no response from the Administrator or the head of the Village to my correspondence of September 9, 2013.

[33] I find that the Village refused to comply with a lawful requirement of the Commissioner namely the failure to provide a proper section 7 response to the Applicant.

V FINDINGS

[34] I find that the Northern Village of Pinehouse has failed to ensure an appropriate delegation of authority to the Administrator to deal with access requests under *The Local Authority Freedom of Information and Protection of Privacy Act*.

[35] I find that the Northern Village of Pinehouse has failed to respond appropriately to either of the two subject requests for access to information. Specifically, there was no proper section 7 response in accordance with *The Local Authority Freedom of Information and Protection of Privacy Act*.

[36] I find that the Northern Village of Pinehouse has failed to respond appropriately to the Office of the Saskatchewan Information and Privacy Commissioner when it was notified that a formal review was underway pursuant to Part VI of *The Local Authority Freedom of Information and Protection of Privacy Act*.

[37] I find that the failures described in the previous findings were without lawful excuse and with knowledge on the part of the Mayor and the Administrator that such actions constituted a violation of *The Local Authority Freedom of Information and Protection of Privacy Act*.

VI RECOMMENDATION

[38] I recommend that the Northern Village of Pinehouse issue compliant section 7 responses to the Applicant and my office within 15 days of issuance of this Review Report.

[39] I recommend that the Ministry of Justice, that has administrative responsibility for *The Local Authority Freedom of Information and Protection of Privacy Act*, in consultation with the Ministry of Government Relations:

- ensure that the Northern Village of Pinehouse is assisted in properly delegating powers to a Privacy Officer;
- that the Privacy Officer receive a clear job description and appropriate training; and
- that appropriate policies and procedures be implemented for compliance with *The Local Authority Freedom of Information and Protection of Privacy Act*.

[40] I recommend that the Minister of Justice and Attorney-General consider prosecution pursuant to section 56(3) of *The Local Authority Freedom of Information and Protection of Privacy Act* in respect to the refusal of the Northern Village of Pinehouse to comply with a lawful requirement of the Commissioner.

Dated at Regina, in the Province of Saskatchewan, this 18th day of November, 2013.

R. GARY DICKSON, Q.C.
Saskatchewan Information and Privacy
Commissioner

POSTSCRIPT

Our office has now had experience with a number of rural municipalities in the course of dealing with citizen complaints that these local authorities are not responding as required by *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).¹ In many of these cases, there is no proper section 7 response to applicants, there is no attention paid to the time limits prescribed by LA FOIP, there is no delegation of authority by the head in accordance with section 50 of LA FOIP and there is a failure to fully cooperate with our office. Although a lack of familiarity with LA FOIP may explain these problems, at least in part, it still means that citizens living in these rural municipalities are prejudiced when it comes to them asserting their statutory rights to access records or to address privacy complaints.

The thirty years of experience with access and privacy laws in Canada is that FOIP Coordinators who deal with access requests and privacy complaints become much more proficient the more they handle such matters. On the other hand, for a rural municipality office with perhaps a single employee, namely the Administrator, that may rarely see a request for access or privacy complaint, the rules and process for complying with LA FOIP may appear to be intimidating.

I recognize that the Ministry of Justice, Access and Privacy Branch (the Access and Privacy Branch) has done some targeted training for local authorities. I also am mindful that the Ministry of Government Relations has a number of advisors that receive requests for advice and assistance from rural municipalities dealing with a number of municipal statutes. Neither of those services, the large volume of summary advice calls that the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) responds to, nor the large number of resources on our website (www.oipc.sk.ca) have resolved the knowledge gap.

I, therefore, encourage the Ministry of Justice, the Ministry of Government Relations, the Saskatchewan Association of Rural Municipalities and the Rural Municipalities Administrators Association to explore the creation of an office within the Ministry of Government Relations that would have the mandate to act on behalf of rural municipalities in processing access to information requests and privacy complaints. I anticipate that such an office would need to be

¹*The Local Authority Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. L-27.1.

notified by any rural municipality immediately upon receipt of an access to information request or breach of privacy complaint. Such an office would provide detailed advice to the rural municipality on how to search for responsive records. Once assembled, the records could be couriered to the office to be processed in accordance with LA FOIP and specific recommendations made to the head of the rural municipality, who would be in a position to respond appropriately to the applicant. Such an office would be functioning as a kind of agent for the head of the rural municipality who retains overall responsibility for what is released or withheld.

The offence provision in LA FOIP would never be the most appropriate way to encourage compliance by rural municipalities and I am always reluctant to make such a recommendation to the Minister of Justice and Attorney-General. Yet, if rural municipalities are unfamiliar with LA FOIP and fail to utilize the resources created by the OIPC and the Access and Privacy Branch to assist them in their compliance efforts, and fail to respond appropriately to our oversight office, it is citizens who live in those municipalities who are prejudiced. Given the quasi-constitutional status of LA FOIP and the importance of the principles of transparency and accountability, there needs to be serious consequences for non-compliance.