



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
*for British Columbia*

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Order F19-32

## THOMPSON RIVERS UNIVERSITY

Erika Syrotuck  
Adjudicator

August 30, 2019

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**Summary:** The applicant requested that the Commissioner order the public body to respond to her access request as required by the *Freedom of Information and Protection of Privacy Act* (FIPPA). The adjudicator determined that the public body had not responded to the request in accordance with FIPPA and ordered it to do so.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, ss. 7, 10.

### INTRODUCTION

[1] The applicant requested that the Commissioner order Thompson Rivers University (the University) to respond to her access request in accordance with s. 7 of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

### ISSUE

[2] The issue I will decide in this inquiry is whether the University failed to comply with the time to respond as set out in s. 7 of FIPPA.<sup>1</sup>

### **Background**

[3] The applicant made an access request under FIPPA on March 29, 2019. The applicant's request related to records about herself.

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<sup>1</sup>The notice of inquiry also said that s. 6(1) is in issue. Section 7 deals explicitly with the time limit for responding to access requests, so the inquiry can be resolved on this basis alone.

[4] On April 1, 2019, the University sought confirmation of the details of the access request. The applicant responded the same day, confirming the details of the request.

[5] On May 7, 2019, the University wrote to the applicant, notifying her that it was extending the time for responding to the applicant's request as permitted under s. 10(1) of FIPPA. The University said that the new date for responding to the request was June 27, 2019.

[6] On July 6, 2019, the applicant contacted the Office of the Information and Privacy Commissioner requesting the OIPC issue an order to the University to provide the requested records.

***Time limit for responding to an access request under FIPPA.***

*Statutory provisions*

[7] The relevant sections of FIPPA are:

*Time limit for responding*

**7** (1) Subject to this section and sections 23 and 24(1), the head of a public body must respond not later than 30 days after receiving a request described in section 5(1).

(2) The head of the public body is not required to comply with subsection (1) if

(a) the time limit is extended under section 10, or

(b) the request has been transferred under section 11 to another public body.

*Extending the time limit for responding*

**10** (1) The head of a public body may extend the time for responding to a request for up to 30 days if one or more of the following apply:

(a) the applicant does not give enough detail to enable the public body to identify a requested record;

(b) a large number of records are requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the public body;

(c) more time is needed to consult with a third party or other public body before the head can decide whether or not to give the applicant access to a requested record;

(d) the applicant has consented, in the prescribed manner, to the extension.

(2) In addition to the authority under subsection (1), with the permission of the commissioner, the head of a public body may extend the time for responding to a request as follows:

(a) if one or more of the circumstances described in subsection (1) (a) to (d) apply, for a period of longer than the 30 days permitted under that subsection;

(b) if the commissioner otherwise considers that it is fair and reasonable to do so, as the commissioner considers appropriate.

(3) If the time for responding to a request is extended under this section, the head of the public body must tell the applicant

(a) the reason for the extension,

(b) when a response can be expected, and

(c) in the case of an extension under subsection (1) (a) to (c), that the applicant may complain about the extension under section 42 (2) (b) or 60 (1) (a).

[8] Schedule 1 of FIPPA says that "day" does not include a holiday or a Saturday.

[9] Section 53(3) says that failure to respond in time to a request for access to a record is treated as a decision to refuse access to the record.

#### *Parties' positions*

[10] In its submissions, the University explains why it has not been able to respond to the applicant's access request. Namely, the University says that there are a large volume of records that may be responsive to the access request and that it received a similar access request under FIPPA around the same time that also requires a response. It says that it feels it is fair to both applicants to process the requests contemporaneously. The University says that it has an additional six outstanding access requests.

[11] The University did not indicate that it had requested permission from the Commissioner to extend the time for responding to the request.

[12] The applicant says that there is no basis for the University to refuse to respond to a request because it is processing another request under FIPPA. The applicant says that allowing a public body to indefinitely delay or refuse access requests because of other requests under FIPPA would undermine FIPPA's

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purposes of making public bodies more accountable and giving individuals a right of access to personal information about themselves as set out in s. 2.

[13] In its reply submission, the University says that it believes that it will be able to respond to the access request in the period set out in s. 59(1) of FIPPA.

*Analysis*

[14] Section 7 of FIPPA is clear that the public body must respond to a request for records within 30 days unless the time for responding is extended under s.10. Section 10 sets out a complete code for time extensions under FIPPA.

[15] I am satisfied that the University has not responded to the applicant's March 29, 2019 access request within 30 days under s. 7(1) or an additional 30 days under s. 10(1). There is no evidence that University applied for a further time extension under s. 10(2).

[16] Therefore, the University has not complied with s. 7 of FIPPA.

**CONCLUSION**

[17] Under s. 58, I require Thompson Rivers University to perform its duty to respond to the applicant's access request under s. 7(1) of FIPPA.

[18] Under s. 59(1) Thompson Rivers University must respond to the access request by October 15, 2019. Upon responding to the access request, Thompson Rivers University must notify the Registrar of Inquiries that it has complied with this order.

August 30, 2019

**ORIGINAL SIGNED BY**

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Erika Syrotuck, Adjudicator

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