



Order F25-38

NORTHERN HEALTH AUTHORITY

Elizabeth Vranjkovic
Adjudicator

May 22, 2025

CanLII Cite: 2025 BCIPC 46
Quicklaw Cite: [2025] B.C.I.P.C.D. No. 46

Summary: An applicant requested records from the Northern Health Authority (Northern Health) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). Northern Health acknowledged it did not respond to the applicant's access request within the timeline required by s. 7 of FIPPA. The adjudicator found Northern Health had not fulfilled its duty under s. 7 of FIPPA and ordered it to respond to the applicant's access request by a specified date.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, [RSBC 1996] c. 165, ss. 7, 7(1) and 7(2).

INTRODUCTION

[1] This inquiry is about whether the Northern Health Authority (Northern Health) complied with its duty to respond to the applicant's access request within the required time limit in s. 7 of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] On January 16, 2025, the applicant made an access request to Northern Health. The applicant did not receive a response to their request, so they complained to the Office of the Information and Privacy Commissioner (OIPC) that Northern Health had failed to respond to their request within the timelines set out in FIPPA. Northern Health acknowledged that it failed to respond to the applicant's access request in accordance with the statutory time limits imposed by s. 7 of FIPPA.¹ As of the date of the inquiry, Northern Health still had not responded to the access request.

¹ From this point forward, whenever I refer to section numbers I am referring to sections of FIPPA.

Preliminary matter – issues outside the scope of the inquiry

[3] In their response submission, the applicant raises issues that were not included in the notice of written inquiry (notice). For example, the applicant makes submissions and seeks relief regarding Northern Health's proactive disclosure obligations. The applicant also raises concerns about Northern Health's conduct in relation to other access requests which are not before me in this inquiry.

[4] I decline to consider any new issues. The notice clearly sets out the issues for the inquiry. The applicant did not seek permission to add any new issues and I am not satisfied that it would be fair to add any of those new issues now. As a result, I decline to add any of the new issues raised by the applicant to this inquiry. I have focused my discussion below only on the evidence and submissions relevant to deciding the s. 7 issue.

ISSUES

[5] The issues to be decided in this inquiry are:

1. Did Northern Health comply with its duty to respond to the applicant's request within the timelines in s. 7?
2. If Northern Health did not comply with its duty under s. 7, what is the appropriate remedy?

BURDEN OF PROOF

[6] Northern Health acknowledges it did not respond to the applicant's request within the time requirements of FIPPA. Section 53(3) says that a public body's failure to respond in time to a request for access to a record is to be treated as a decision to refuse access to the record.

[7] Section 57(1) says that at an inquiry into a decision to refuse an applicant access to all or part of a record, it is up to the head of the public body to prove that the applicant has no right of access to the records or part. Therefore, I find that Northern Health has the burden to prove that it met its duty to respond to the applicant's access request as required by s. 7.²

DISCUSSION

Did Northern Health comply with its duty to respond to the access request within the timelines in s. 7?

² This determination is consistent with past orders. See for example Order F25-08, 2025 BCIPC 8 and Order F25-09, 2025 BCIPC 9.

[8] The relevant parts of s. 7 are as follows:

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.

[9] Schedule 1 of FIPPA says that “day” does not include a holiday or a Saturday. Under the *Interpretation Act*, a “holiday” includes, among other things, a Sunday.³

[10] There is no dispute between the parties that the applicant filed the access request on January 16, 2025. The applicant says that Northern Health was required to respond by February 27, 2025.⁴ The notice says the legislated due date was February 28, 2025. Northern Health does not specify the due date and does not argue that the 30-day time limit in s. 7(1) was extended or suspended under the provisions of ss. 7 and 10, or that the request was transferred under s. 11.

[11] I find that Northern Health was required under s. 7(1) to respond to the access request by February 28, 2025.

[12] Northern Health concedes that it did not respond to the applicant in accordance with s. 7(1).⁵

[13] Considering all of the above, I find Northern Health failed to comply with its duty under s. 7(1) to respond to the applicant’s access request by no later than 30 days after receiving it.

What is the appropriate remedy?

[14] Section 58(1) states that the commissioner must dispose of the issues in an inquiry by making an order under s. 58. The usual remedy in such cases is to

³ RSBC 1996, c 238, s. 9. The parties refer to “business days” in their submissions. Under the definitions in FIPPA and the *Interpretation Act*, a “day” refers to what is commonly known as a business day. As a result, I refer only to “days” in this order.

⁴ Applicant’s response submission at s. 1.

⁵ Public body’s initial submission.

order the public body, under s. 58(3)(a), to respond to the access request by a particular date.⁶

[15] The applicant and Northern Health both seek such an order but disagree on what date is appropriate. The applicant also seeks relief that departs from the usual remedy, which I will discuss below.

[16] I find ordering Northern Health to respond to the access request as required under Part 2 of FIPPA, and to do so by a specific date, is an appropriate remedy. The question is what date is appropriate.

[17] The applicant says that an appropriate deadline is 15 days from the date of this order.⁷

[18] Northern Health says that it is not “practically feasible” to respond by the applicant’s proposed deadline.⁸ Instead, Northern Health estimates that it can respond to the applicant on or before June 20, 2025.⁹ In support of its estimate, Northern Health provides affidavit evidence from its Executive Director, Enterprise Risk & Compliance and Chief Privacy Officer, who says:

- She expects to have the results of automated searches for any responsive records that are in email format by May 9, 2025.
- She issued a call for records other than emails to five staff members on April 14, 2025. She has received responsive records from two of those individuals and expects to receive responsive records or confirmation of no responsive records from the other three by May 9, 2025.
- Northern Health has contracted with a consulting company to process the access request.
- As she receives batches of responsive records, she is delivering them to the consulting company.
- The consulting company will use software to prepare the records for review (for example, de-duplicating and ordering records by date). The consulting company estimates this will take a maximum of six hours.
- The consulting company will then conduct a line-by-line review of the records. It estimates that, “based on the scope of the request and the types of records involved,” this will take approximately 30 days.
- After the consulting company’s line-by-line review, she will review and approve the records within two days.

⁶ For example, Order F16-29, 2016 BCIPC 31 at paras 8-11; Order F24-90, 2024 BCIPC 103 at paras 141-16; and Order F23-59, 2023 BCIPC 69 at para 31.

⁷ Applicant’s response submission at s. 5.

⁸ Public body’s reply submission at para 43.

⁹ Affidavit of Northern Health’s Executive Director, Enterprise Risk & Compliance and Chief Privacy Officer (Chief Privacy Officer) at para 26.

- She will provide the records to the applicant on the day she approves them or the next day.

[19] I accept Northern Health's evidence that once the consulting company has all of the responsive records, it will require six hours to prepare them for a line-by-line review. However, Northern Health does not adequately explain why a line-by-line review of those responsive records will take 30 days. In the absence of further explanation, I am not persuaded that Northern Health should be given 30 days to conduct a line-by-line review of the records.

[20] I find that the applicant's proposed deadline of 15 days from the date of this order is an appropriate remedy. In my view, this timeline takes into account the length of time the applicant has already been waiting for a response to their access request while still allowing Northern Health time to properly review and process the requested records. I require Northern Health to provide the applicant with a response to their access request, in accordance with Part 2 of FIPPA by June 12, 2025.

Additional relief sought by the applicant

[21] The applicant seeks several remedies beyond the usual relief set out above. For the reasons that follow, I find that the additional relief sought by the applicant is not necessary or appropriate in the circumstances.

[22] To begin, the applicant seeks an order requiring Northern Health to prioritize the release of records in a specific way, to provide staged or rolling disclosure to mitigate further delay, and to comply with s. 8(1) in their response.¹⁰ Section 58 does not empower me to order Northern Health to prioritize the release of records in a specific way or provide stages of disclosure. It also goes without saying that any response under s. 7 must comply with s. 8.

[23] The applicant also seeks an order requiring Northern Health to provide all responsive records in both electronic and paper formats.¹¹ Northern Health opposes such an order.¹² In the absence of an explanation from the applicant about why they seek disclosure in both paper and electronic form, I do not think it is appropriate for me to make an order requiring disclosure in both paper and electronic formats. Having said that, this does not prevent Northern Health from choosing to provide the responsive records in both formats.

[24] The applicant also seeks a finding that Northern Health cannot assess any fees for this access request.¹³ Northern Health says that it has not issued a fee

¹⁰ Applicant's response submission at s. 5.

¹¹ *Ibid.*

¹² Public body's reply submission at para 53.

¹³ Applicant's response submission at s. 5.

estimate to the applicant in respect to this access request and “it has never intended to do so.”¹⁴ It seems to me that there is no live issue between the parties about a fee estimate, so it is not necessary for me to make any order about fees.¹⁵

[25] Additionally, the applicant seeks a formal finding with respect to their concerns about Northern Health’s affidavit evidence.¹⁶ I have already considered the applicant’s concerns about Northern Health’s affidavit evidence and Northern Health’s response to those concerns in making this order. I do not find it necessary or appropriate to issue a “formal finding” about those concerns.

[26] Finally, the applicant seeks an order affirming public bodies’ responsibilities to comply with specific provisions of FIPPA.¹⁷ I do not find it appropriate to do so. My role in this inquiry is to determine the issues set out in the notice, not to reiterate public bodies’ obligations on a variety of matters at the applicant’s request.

CONCLUSION

[27] For the reasons given above, under s. 58(3)(a), I order Northern Health to perform its duty under s. 7 by responding to each of the applicant’s access requests in accordance with Part 2 of FIPPA on or before June 12, 2025.

[28] Under s. 58(4), I order Northern Health to copy the OIPC’s registrar of inquiries on the responses Northern Health sends to the applicant in compliance with paragraph 27 above.

May 22, 2025

ORIGINAL SIGNED BY

Elizabeth Vranjkovic, Adjudicator

OIPC File No.: F25-00719

¹⁴ Chief Privacy Officer’s affidavit at para 7.

¹⁵ In any event, a fee waiver is not listed as an issue in the notice.

¹⁶ Applicant’s response submission at s. 5.

¹⁷ *Ibid.*