



Order F26-71

UNIVERSITY OF VICTORIA

Carol Pakkala
Adjudicator

August 20, 2026

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

Statute Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, s. 7(1) and 7(2)(a).

INTRODUCTION

[1] This inquiry concerns whether the University of Victoria (University) complied with its duty to respond to an access request made by the applicant within the time limits required by s. 7 of the *Freedom of Information and Protection of Privacy Act* (FIPPA).¹

[2] Section 7 establishes the statutory time limits within which a public body is required to respond to an access request. While s. 7(1) requires a public body to respond to an access request within 30 days of receiving the request, s. 7(2)(a) allows a public body to extend the time for responding under s. 10(1).

[3] On April 23, 2026, the applicant made an access request to the University. The statutory deadline under s. 7(1) to respond to that request was June 5, 2026. The University did not respond by that deadline.

¹ From this point forward, when I refer to sections, I am referring to FIPPA.

[4] Pursuant to s. 10(1)(b), the University took its own 30-day extension of time to July 20, 2026. The University did not respond to the access request by the extended deadline.

[5] The University did not request permission from the Commissioner under s. 10(2) for a further extension of its legislated time to respond and still has not responded.

[6] The applicant complained to the Office of the Information and Privacy Commissioner (OIPC) that the University's response to the access request was late.² The complaint was referred to an OIPC investigator but was not resolved at that stage.

[7] The applicant's complaint was referred to this inquiry through the OIPC's expedited inquiry process.

Preliminary matters

Procedural fairness and legitimate expectations

[8] The University says that this matter was referred to inquiry prematurely and argues the correct remedy is to refer it back to an investigator to coordinate the University's response to the applicant's access request.

[9] In support of its position, the University quotes part, but not all, of the process to be followed in deemed refusal matters as it is set out in the *Guide to OIPC Processes (FIPPA)* (Guide).³

[10] I understand the University's argument to be it had a legitimate expectation that it would have more time to address its legislated timeline for response.

[11] I am not persuaded by the University's legitimate expectations argument for two reasons. First, I do not agree with the University that the OIPC departed from its expected process. Second, I am not persuaded the doctrine of legitimate expectations even applies here.

Departure from expected process

[12] As noted by the University, the Guide sets out the expected process for deemed refusal matters. The University says the OIPC did not follow that

² Applicant's complaint to the OIPC of July 21, 2026, communicated to the University on July 23, 2026.

³ University's initial submission at para 17 citing the *Guide to OIPC Processes (FIPPA)* [Guide], available at <https://www.oipc.bc.ca/documents/guidance-documents/1519>.

process, and it is concerned with the speed at which this matter was referred to inquiry.⁴

[13] My role at inquiry is not to review the decision of an investigator, it is to adjudicate the merits of the applicant's complaint. I will, however, address the process argument in a general sense i.e., how deemed refusal matters, which are obviously time sensitive, are referred to inquiry.

[14] In its submission, the University quotes only part of the OIPC process for deemed refusals that are included in the Guide. The University neglects to quote the entire process which includes the referral to an expedited inquiry process. That part reads:

Expedited Inquiry Process

1. If mediation is unsuccessful or if either party is unwilling to seek a consent order, the OIPC may prepare and send out a notice of inquiry. Each party will be allowed to make written submissions in accordance with a schedule set out in the notice of inquiry.
2. The Adjudicator will issue a decision.

[15] Based on the above, it is clear that there are circumstances where the OIPC will refer a complaint about s. 7 to an expedited inquiry rather than resolving the matter by way of a consent order. I am not persuaded that a fast referral to inquiry is a departure from the expected process.

Application of doctrine of legitimate expectations

[16] The University argues that it had a legitimate expectation that before any referral to inquiry was made, it would be given an opportunity to explain the delay, propose alternate timelines, and be presented with an opportunity to enter a negotiated consent order.⁵ Essentially, I understand the University to argue it expected to have more time through investigation and mediation.

[17] The University anchors its legitimate expectations argument in certain decisions of the Supreme Court of Canada⁶ and in a statement in a previous OIPC order that reads:

In reviews where a deemed refusal is at issue, those files are generally resolved during the intake or investigation/mediation stage of the OIPC's

⁴ University's reply submission at para 2.

⁵ University's response submission at para 2.

⁶ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at paras 77 and 131 and *Baker v. Canada (Minister of Citizenship and Immigration) [Baker]*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at para 26.

review process by requiring the public body to issue a response to an access applicant within a reasonable timeframe.⁷

[18] From the passage quoted above, I understand the University to mean it expected this matter to be dealt with through investigation and mediation, not through inquiry. From its references to how fast this matter proceeded to inquiry, I further understand the University expected more time.

[19] The doctrine of legitimate expectations protects the interest that a certain process be followed, as a matter of fairness. For it to apply, the legitimate expectation must be “clear, unambiguous and unqualified.”⁸

[20] In my view, the University has not identified a clear, unambiguous and unqualified expectation. I am not persuaded there is a clear and unambiguous practice at the OIPC of resolving all deemed refusals through investigation and mediation.⁹ To the contrary, the Guide clearly contemplates the availability of the expedited inquiry process for deemed refusals.

[21] Another aspect of the legitimate expectations doctrine is that the expectation at issue cannot conflict with the applicable legislation.¹⁰ This inquiry is about the University’s failure to respond to an access request within the legislated time. The University’s stated expectation here is that it would have more time in investigation and mediation. This expectation of more time would concurrently further extend its time limit to respond to the applicant’s access request. In my view, this expectation conflicts with FIPPA’s imposition of a positive obligation on the University to respond in accordance with legislated timelines.

[22] For all of the above reasons, I am not persuaded that the doctrine of legitimate expectations applies here.

ISSUES AND BURDEN OF PROOF

[23] The issues I must decide in this inquiry are as follows: ¹¹

1. Did the University comply with its duty to respond to the applicant’s access requests within the timelines in s. 7?

⁷ Order F24-28, 2024 BCIPC 35 at para 3.

⁸ *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 sec 36.

⁹ For similar reasoning, see *Luchkiw v. College of Physicians and Surgeons of Ontario*, 2022 ONSC 5738 at para 72.

¹⁰ *Ibid.*

¹¹ It is neither necessary nor appropriate to consider s. 6(1) where the issue between the parties is whether the public body’s response to the applicant’s access request was late: Order F25-08, 2025 BCIPC 8 (CanLII) and Order F25-09, 2025 BCIPC 9 (CanLII).

2. If the University did not comply with its duty under s. 7, what is the appropriate remedy?

[24] Section 57(1) provides 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 the University has the burden to prove that it met its duty to respond to the applicant's access request as required by s. 7 of FIPPA.¹²

DISCUSSION

[25] Section 7 provides the relevant time periods for responding to an access request. The relevant parts of s. 7 are as follows:

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 ...

[26] The University acknowledges that it failed to respond to the applicant's access request in accordance with the statutory time limits imposed by s. 7. The University further acknowledges it did not apply to the OIPC under s. 10(2) for a further extension of time to respond. Therefore, I find that the University has not complied with the statutory time limits in s. 7 of FIPPA.

What is the appropriate remedy?

[27] Section 58 of FIPPA states 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 order the public body, under s. 58, to respond to the access request by a particular date.¹³

Parties' submissions

[28] The University attributes its delay in responding to the access request to resource and staffing issues. In particular, the University says it has experienced

¹² This determination is consistent with past orders. See for example Order F25-08, 2025 BCIPC 8; and Order F25-09, 2025 BCIPC 9.

¹³ See for example Order F25-11, 2025 BCIPC 13; F25-09, 2025 BCIPC 9; Order F25-08, 2025 BCIPC 8; Order F16-29, 2016 BCIPC 31, at paras 8-11; Order F24-90, 2024 BCIPC 103 at paras 14-16; Order F23-59, 2023 BCIPC 69 at para 31.

a sudden and unexpected increase in the number and volume of access requests.¹⁴

[29] The University says it only has three full-time equivalent staff members in its Privacy and Access to Information Office. These staff, it says, are not exclusively dedicated to responding to access requests and have other duties.¹⁵

[30] The University also attributes its delay in responding to the access request to the volume of records responsive to the access request. Given this volume, the University says responding to this request will consume 10 weeks of staff time dedicated solely to this request.¹⁶

[31] The University further says the applicant's prior requests are a relevant consideration. The University says that over the past year, the applicant has made three requests, each of which has required considerable time and resources to process.¹⁷

[32] The University proposes a response deadline of October 16, 2026 as an appropriate remedy.

[33] The applicant objects to the University's requested remedy. The applicant says the University's position is based on assertions and assumptions. The applicant points out the University provides no affidavit evidence in support of its request for additional time. The applicant challenges the University's assertions and assumptions.¹⁸

[34] The applicant asks that I order the University to fully respond no later than August 28, 2026.¹⁹

[35] In reply to the applicant's proposed remedy, the University says "[t]his is an impossible task for the University to complete within such a time."²⁰

[36] In reply to the applicant's insufficiency of evidence arguments, the University provides an affidavit from its Corporate Privacy Officer and Director, Privacy & Access who says:

- In order to expedite this process, the University has decided to test pilot new software to organize and de-duplicate the responsive records.

¹⁴ University's initial submission at para 20.

¹⁵ University's initial submission at para 21.

¹⁶ University's initial submission at para 34.

¹⁷ University's initial submission at para 24.

¹⁸ Applicant's submission at para 3.

¹⁹ Applicant's submission at para 41.

²⁰ University's reply submission at para 23.

- The University has now confirmed that there are 9,206 pages of responsive records.
- The University is proposing to release 160 pages on August 13, 2026; 814 pages on August 28, 2026, 1,329 pages on September 18, 2026, and 6,880 pages on October 16, 2026.

[37] The University continues to rely on the volume of records responsive to the applicant's request, saying it is larger than the entire amount it has processed this year to date for all access requests.

Analysis

[38] Section 58 states 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 order the public body, under s. 58, to respond to the access request by a particular date.²¹

[39] I find that the appropriate remedy in this case is to order the University to respond to the applicant's request as required under Part 2 of FIPPA and to do so by a specific date.

[40] In deciding on an appropriate date, I am mindful that public bodies have an obligation to make every reasonable effort to respond to an access request without delay. Former Commissioner Loukidelis explained this obligation further by stating that the "inability to respond as required by law cannot – whether or not it was due to an excess of demand over the resources available to respond – wipe away the fact that the responses were late."²²

[41] The University proposes a date of October 16, 2026 and the applicant a date of August 28, 2026. To decide which date is appropriate, I considered the University's evidence about how much time it will take to respond to the access request and the underlying reasons for the proposed response time.

[42] In my view, the University does not adequately explain the basis for its proposed date. The University's submissions instead focus on the applicant's behaviour, the processes of the OIPC, and on its volume of work rather than on the mechanics of responding to this access request.

²¹ For examples see: Order F26-62, 2026 BCIPC 77 (CanLII) at para 18; Order F16-29, 2016 BCIPC 31 (CanLII) at paras 8-11; Order F24-90, 2024 BCIPC 103 (CanLII) at paras 14-16; Order F23-59, 2023 BCIPC 69 (CanLII) at para 31.

²² Order 02-38, *Office of the Premier and Executive council operations and Ministry of Skills Development and Labour*, Re, 2002 CanLII 42472 (BC IPC) at para 23.

[43] Rather than describing the specific steps it is taking to respond to this access request, the University:

- outlines its general process for responding to an access request - including steps such as “formulate a rational search”, “extract and compile records”, “review records”, etc.²³
- says it will take a single staff member three full days of work to complete the first five steps;²⁴
- says that once the packages are assembled, it will take ten or more weeks of work to determine which records are responsive and then apply the redactions and consult internally about their release;²⁵
- says staff vacation time will delay this work; and
- says by testing new software it has now determined a new volume of responsive records.²⁶

[44] In its initial submission, the University said it had already completed its search for responsive records, amounting to 3,300 pages of records.²⁷ Less than two weeks later, in its reply submission, the University now says the page number has almost tripled to 9,206 pages²⁸. The University does not further explain this discrepancy except to say it used new software.

[45] Based on the content of the access request, the roughly three-year time period it covers, and the University’s failure to explain the discrepancy in page numbers, I am not persuaded of the volume. Further, the University has not provided sufficient evidence to persuade me it will take ten weeks to respond to the access request.

[46] For all of these reasons, the University has not persuaded me that it requires until October 16, 2026 to respond to the access request. In my view, the University has not demonstrated adequate efforts, or even an intention, to comply with the legislated timelines for response.

[47] As of the date of this order, the applicant has already been waiting almost four months for a response to the access request. The applicant quite generously now proposes a response date of August 28, 2026.

[48] After considering all of the above, I find an appropriate remedy is to order the University to respond by September 4, 2026. In my view, this timeline takes into account the length of time the applicant has already been waiting for a

²³ University’s initial submission at para 30.

²⁴ University’s initial submission at para 31.

²⁵ University’s initial submission at para 32.

²⁶ University’s response submission at para 19.

²⁷ University’s initial submission at para 16.

²⁸ University’s response submission at para 19.

response to their access request (3 days shy of four months) while still allowing the University to properly review and process the requested records.²⁹

CONCLUSION

[49] For the reasons above, I make the following orders under ss. 58(3)(a) and 58(4):

1. I order the University to perform its duty under s. 7 by fully responding to the applicant's access request in accordance with Part 2 of FIPPA on or before **September 4, 2026**.
2. I order the University to provide the OIPC's registrar of inquiries with a copy of its cover letters to the applicant for each release of records in compliance with items 1 and 2 above.

August 20, 2026

ORIGINAL SIGNED BY

Carol Pakkala, Adjudicator

OIPC File No.: F26-02351

²⁹ The date by which a public body is ordered to respond varies widely according to the circumstances. Some examples of the approximate amount of time between the date of an access request to the date ordered by the adjudicator for a response include: 5 months in Order F25-37, 2025 BCIPC 45 (CanLII) and 11 months in Order F24-28, 2024 BCIPC 35 (CanLII) where the request was for records covering an 18-year period.