

**NUNAVUT
INFORMATION AND PRIVACY COMMISSIONER**

Review Recommendation 07-39
November 29, 2007
Review File: 07-223-5

A. BACKGROUND

By letter dated June 11th, 2007, the Applicant requested documentation from the Department of Education, specifically the following:

- a) all documents relating to Robert Genge's communication with [A.B.] and with the R.C.M.P.
- b) attachments 1a and 2a mentioned in Mr. Rose's letter of April 10, 2002
- c) Ian Rose's reply to [A.B.] and [C.D.] including all documents disclosed by Mr. Rose to [A.B.] and [C.D.] and
- d) the file relating to the "careful investigation" which according to Mr. Rose was conducted into the false allegations made against me by Robert Genge

In this case, A.B. and C.D. are two individuals named by the Applicant who are not public servants or employees of the department. Their names are not relevant or necessary to this review and I have therefore referred to them by pseudonyms for the purposes of this review recommendation.

By letter of June 28th, 2007, the public body gave notice to the Applicant that they were extending the time for the response to the request pursuant to section 11 of the *Access to Information and Protection of Privacy Act* to August 10th. In advising the Applicant of the extension, the public body indicated that they had encountered delays in searching for the requested records since some or all of the individuals named in the request for information were no longer in the positions held at the time covered by the request, necessitating a more complex search of a large number of records.

In his Request for Review, the Applicant takes the position that the reason given for the delayed response is not one of the allowable reasons for an extension under section 11 of the *Act*, which outlines the circumstances in which an extension can be taken.

The public body provided a detailed explanation for the delay to me and the Applicant was given the opportunity to respond to that explanation. He did not provide any further comments.

B. ISSUE

The sole issue which I have been asked to address in this review is whether or not the public body properly applied section 11 of the *Access to Information and Protection of Privacy Act* in extending the time to respond to the Applicant's request for information to August 10th.

C. DISCUSSION

The issues under consideration and the explanations received from the Department in this case are the same as those discussed in my Review Recommendations 07-036, 07-037 and 07-038. For that reason, I do not feel that it is necessary to repeat the background or explanations provided in any more detail than outlined above.

Section 11 of the *Access to Information and Protection of Privacy Act* provides public bodies with the discretion to extend the response time in certain circumstances and in this case the public body took advantage of that section to extend the time for responding to the Respondent.

Although the public body's letter to the Applicant explaining the reason for the delay was not entirely clear and could have been worded in way which outlined more specifically the reasons for the delay, I am satisfied that in all of the circumstances of

this case that the public body properly exercised its discretion and that the reasons that the delay was necessary were within section 11 (1)(b).

It is my understanding that the Request for Information has now been fully responded to.

D. CONCLUSION AND RECOMMENDATIONS

As noted above, it is my opinion that the public body in this instance was justified in delaying the response to the Applicant's request for information pursuant to section 11 (1)(b) of the *Access to Information and Protection of Privacy Act* in that there were a significant number of records to search at a number of different locations during a time in which there were additional problems with staffing and I am satisfied that it was not possible to meet the initial 30 day deadline for response without seriously interfering with the normal operations of the department.

I would have no further recommendations to make other than the ones already made in my Review Recommendations 07-036, 07-037 and 07-038, which generally relate to the wording of the letter that was sent to the Applicant in advising him of the extension of time. I make no further recommendations with respect to this issue.

Elaine Keenan Bengts
Information and Privacy Commissioner