

# Manitoba Ombudsman

## **10 CHANGES TO FIPPA THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

*The Freedom of Information and Protection of Privacy Act (FIPPA)* became law in Manitoba on May 4, 1998. Significant changes were made to it effective January 1, 2011.

This information sheet highlights some changes to FIPPA. For more information on FIPPA, visit:

- the Manitoba Ombudsman FIPPA web pages at <http://www.ombudsman.mb.ca>
- the Manitoba Government FIPPA web pages at <http://www.gov.mb.ca/chc/fippa/>

### **1. Information and Privacy Adjudicator with ordering power**

An Information and Privacy Adjudicator, a new officer of the Legislative Assembly who has ordering power, has been created. This additional level of independent review and complaint resolution is triggered by the Ombudsman if her recommendations have not been accepted.

If a public body does not act on a recommendation made by the Ombudsman in a FIPPA access to information or privacy complaint, the Ombudsman may refer the matter to the Adjudicator for review. The Adjudicator has the power to make various orders, including:

- requiring the public body to give the applicant access to the requested information
- confirming the public body's access decision
- requiring the public body to perform a duty imposed by FIPPA

An order made by the Adjudicator can be reviewed by the Court of Queen's Bench.

An individual can still appeal a public body's decision concerning a refusal of access to Court, but only if the person has made a complaint to the Ombudsman, the Ombudsman has provided a report about the complaint, and the Ombudsman has not asked the Adjudicator to review the complaint.

The Adjudicator process does not apply to FIPPA complaints under investigation by the Ombudsman at the time these changes came into effect.

### **2. Review of FIPPA in five years**

A comprehensive review of the operation of FIPPA must be undertaken within five years of the Information and Privacy Adjudicator coming into effect. The review will include public representation.

### **3. Ombudsman to publish recommendations**

The Ombudsman must make available to the public all recommendations made in FIPPA complaint investigations (under FIPPA Part 5). These recommendations will be published on the Ombudsman website at [www.ombudsman.mb.ca](http://www.ombudsman.mb.ca)

## **CHANGES CONCERNING ACCESS TO INFORMATION**

### **4. Publicly available information is outside the FIPPA access to information process**

FIPPA's access to information provisions no longer apply to information already available to the public.

However, if an individual cannot obtain publicly available information from the public body and is unable to resolve that concern, the Ombudsman may be able to investigate this as a matter of administration under *The Ombudsman Act*.

### **5. A public body may disregard certain requests for access**

There is an increased onus on applicants to make access requests responsibly. A public body may now disregard an application believed to be:

- incomprehensible, frivolous or vexatious,
- for information already provided to the applicant
- of a repetitious or systematic nature that would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make requests

An applicant can complain to the Ombudsman about a decision to disregard an access request. The public body must be able to justify its decision in these circumstances.

### **6. Public opinion polls are not regarded as advice to a public body**

FIPPA now sets out that a public opinion poll is not to be regarded as advice to a public body. Previously, this had been advanced as a reason for not releasing this information under FIPPA.

## **CHANGES CONCERNING PRIVACY**

### **7. Disclosure for fundraising activities by an educational institution**

An educational institution that is a public body may now disclose personal information in its alumni records for fundraising activities. The institution must have entered into a written agreement that complies with FIPPA with the persons receiving this information.

The individual the information is about has these rights under FIPPA:

- to request that their personal information no longer be disclosed for fundraising
- to request access to their personal information that was disclosed for fundraising
- to request that the person to whom their information was disclosed no longer use it

### **8. Disclosure to The War Amps preserved**

FIPPA sets out that if a public body disclosed names, addresses and drivers' licence numbers to The War Amputations of Canada according to an agreement entered under FIPPA before January 1, 2011, it may continue to do so provided The War Amps uses the information only as set out in the agreement.

For further information on your privacy and The War Amps, you can contact: [privacyofficer@waramps.ca](mailto:privacyofficer@waramps.ca) or 1-800-250-3030.

### **9. Other disclosures of personal information**

There are over 30 situations listed in FIPPA that allow a public body to disclose an individual's personal information without consent. Some additional situations now in FIPPA are:

- to deliver an integrated service, program or activity of a public body
- to evaluate, monitor, or research or plan for, a service, program or activity of a public body or the Government of Manitoba
- where the personal information is of the type routinely disclosed in a business or professional context (name, title, business and email addresses, and telephone and fax numbers)

### **10. Ministerial expenses available to the public**

FIPPA sets out that the Manitoba Government will make public a summary of Cabinet ministers' total annual expenses paid by their department for transportation, travel, accommodation, meals, promotion, hospitality, cell phone and personal electronic communication devices, while performing the responsibilities of their offices.

Manitoba Ombudsman  
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