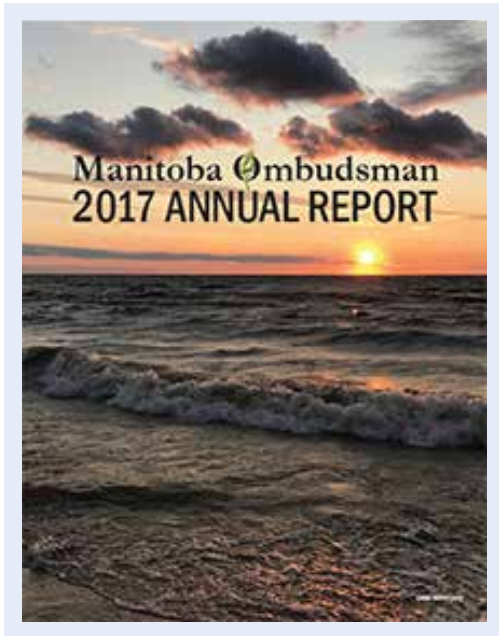


Manitoba Ombuds News

2018-1 Ombudsman, Whistleblower, Access and Privacy Newsletter

2017 Annual Report



Want to know more about our office and what we do? Our annual report highlights the work and accomplishments of our office under the Freedom of Information and Protection of Privacy Act, the Personal Health Information Act, the Ombudsman Act and the Public Interest Disclosure (Whistleblower Protection) Act.

Our 2017 annual report includes investigation statistics, case summaries and other notable happenings. The report is also available in French.

You can read or download the report on our website at www.ombudsman.mb.ca/uploads/document/files/2017-annual-report-en.pdf

If you would like a print copy, or if you would like to be added to a mailing list for future annual reports, please contact our office.

Renovated reception area in Winnipeg office

Visit our Winnipeg office and you'll see a more accessible and brighter front reception area. Lower counters make the space accessible to persons with disabilities, while glass partitions allow more natural light into the space. At the same time, we renovated our adjacent intake room, which is where walk-in clients meet with ombudsman staff. The renovations also enhance the security of the office.



Revised FIPPA guide

We recently released *Your Information Rights Under FIPPA*, which is an updated version of our *User's Guide to FIPPA*, initially published in 2012.

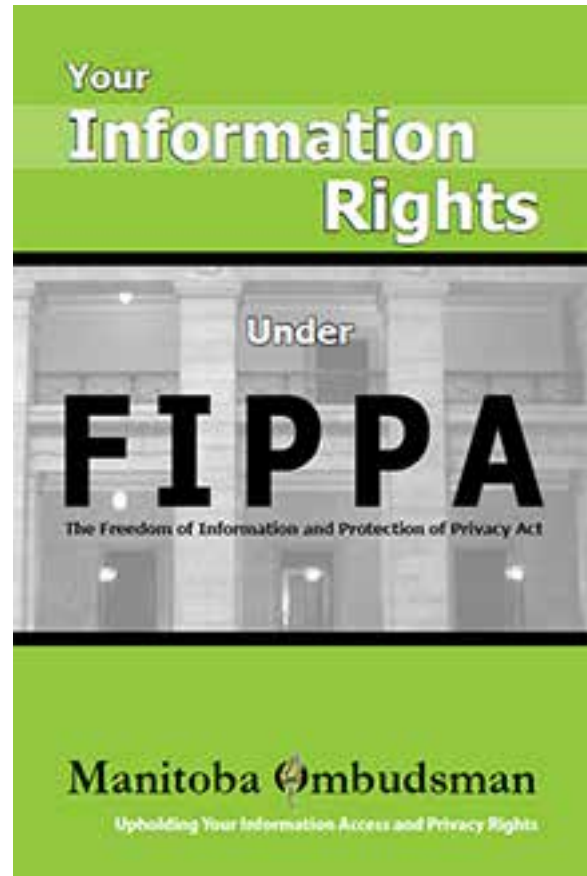
Understanding FIPPA and navigating the access to information process can sometimes be challenging. In addition to investigating complaints, Manitoba Ombudsman plays an important educational role by informing the public about access and privacy laws. We do this in several ways, including by publishing guides such as this one. Public bodies subject to FIPPA may also find the guide useful in helping them to better understand their obligations with respect to upholding an individual's access and privacy rights.

Your Information Rights Under FIPPA is a 28-page guide, divided into five parts:

- Accessing Information
- Access Decisions
- Correcting Your Personal Information
- Protecting Your Privacy
- Access and Privacy Investigations

Print copies of the guide can be obtained by contacting our office. The guide is also available on our website at:

www.ombudsman.mb.ca/uploads/document/files/fippa-guide-2018-web-en.pdf



FIPPA turns 20!

The Freedom of Information and Protection of Privacy Act was proclaimed in Manitoba on May 4, 1998, replacing the Freedom of Information Act, which had been in effect since September 30, 1988.

FIPPA contains similar access provisions to the former FOI Act with respect to records held in the custody or under the control of public bodies. New to the legislation were provisions relating to privacy protection, specifically to the collection, use, disclosure, retention and security of personal information held by public bodies. Also new were the number and kinds of public bodies to which the act applied. In addition to Manitoba government departments and agencies, FIPPA was expanded to cover educational bodies, local government bodies and health-care bodies.

The ombudsman's role was also expanded in 1998 to include additional powers and duties, such as auditing to monitor and ensure compliance with the act, informing the public about the act and commenting on the access and privacy implications of proposed legislation, programs or practices of public bodies.

New investigation reports posted online

FIPPA Reports

Case 2017-0357: An individual requested access to text messages related to Manitoba government business from the premier's personal cell phone. The office of Manitoba Executive Council refused access to the records on the basis that records could not be located as phone bills did not display the recipients of text messages, which would identify text messages that related to government business. Subsequent to a complaint to our office, a further search of the cell phone in question was conducted and some text messages related to government business were recovered from the device. Executive Council's office issued a revised access decision to the complainant, giving access to the recovered information in part. Our office found that the complaint about not being able to locate responsive records was supported.

2017-0371 : An individual requested access to Prairie Mountain Health's fiscal sustainability report. The regional health authority refused access on the basis that disclosure would reveal the substance of deliberations of cabinet and advice within the public body. Our office found that the regional health authority was required to refuse access to this record because the report's disclosure would reveal the substance of deliberations of cabinet and that cabinet did not consent to its release.

PHIA Report

Case 2017-0297: Our office received a complaint from an individual who was asked to indicate her religion for the admissions record as part of the check-in procedure at an adult day surgery clinic at a hospital. The individual believed that the collection of this information was unnecessary for the provision of health care to her as an outpatient who was having a minor procedure. We found that the collection of information about the complainant's religion was not authorized under PHIA, as it was not necessary for the purpose of health care, as spiritual care would not be provided in this type of situation. This finding would also be applicable to the collection of this information from other outpatients. We discussed our finding with the hospital and it agreed to implement procedures to limit the collection of information about religion to circumstances that may reasonably involve the provision of spiritual care to patients.

Ombudsman Act Reports

Case 2017-0313: A citizen whose licence plates were stolen complained to our office after receiving a parking ticket issued by the Winnipeg Parking Authority to a vehicle bearing the stolen plates. The citizen tried to appeal the ticket but missed the deadline for doing so even though she followed instructions provided to her by the City of Winnipeg's 311 service. The Winnipeg Parking Authority advised her that it could not reconsider the parking violation and that the \$100 fine must be paid. Our office found that the 311 service did not provide complete information about how to address the parking violation, which raised an issue of administrative fairness. We made four recommendations to the parking authority and it advised our office that it has taken steps to implement the recommendations, including waiving the \$100 fine.

Case 2014-0164 : A group of citizens in the Rural Municipality of Whitemouth complained about the RM's decision to rebuild the Water Street Bridge. Specifically, the complainants alleged that there was a lack of public consultation regarding the project and inadequate information for ratepayers. They also alleged that the RM did not follow its purchasing/procurement policy, did not have the authority to reallocate Disaster Financial Assistance (DFA) funds and that a councillor was in a conflict of interest situation. Our office found that the RM did undertake the proper procedures in approving the project and providing public consultation opportunities. We did not find maladministration with respect to conflict of interest in a vote by a specific councillor. However, we did conclude there were issues related to following the purchasing/procurement policies and a lack of clarity in the use of DFA funding for the bridge. Our office made four recommendations to the RM of Whitemouth, which the RM accepted. Our office was also advised by Manitoba Infrastructure that administration of the DFA program was being reviewed and that some changes had already occurred.

New investigation reports posted online, continued

Where to find these reports:

FIPPA: www.ombudsman.mb.ca/documents_and_files/investigation-reports.html

PHIA: www.ombudsman.mb.ca/documents_and_files/investigation-reports-1.html

Ombudsman Act (municipal): www.ombudsman.mb.ca/documents_and_files/municipal-investigation-reports.html

“Smart Cities Challenge” and privacy

As part of Infrastructure Canada’s Smart Cities Challenge, communities across Canada were invited to develop innovative solutions to their data and technology challenges. Finalists will be asked to develop final project proposals. Federal, provincial, and territorial privacy protection authorities, including Manitoba Ombudsman, collectively wrote a letter to Infrastructure and Communities Minister Amarjeet Sohi to raise awareness of the need to consider privacy and security of personal information in addition to innovation. We recommended that privacy protections be considered in the selection, design, and implementation of winning proposals.



Read the letter at www.ombudsman.mb.ca/info/federal-provincial-territorial.html

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