

# 2019 ANNUAL REPORT



**Manitoba Ombudsman**



# Manitoba Ombudsman

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December 1, 2020

The Honourable Myrna Driedger  
Speaker of the Legislative Assembly  
Room 244 Legislative Building  
Winnipeg MB R3C 0V8

Dear Madam Speaker:

In accordance with section 42 of the Ombudsman Act, subsection 58(1) of the Freedom of Information and Protection of Privacy Act, subsection 37(1) of the the Personal Health Information Act and subsection 26(1) of the Public Interest Disclosure (Whistleblower Protection) Act, I am pleased to submit the annual report of Manitoba Ombudsman for the calendar year January 1, 2019, to December 31, 2019.

Yours truly,



Jill Perron  
Manitoba Ombudsman



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**Available in alternate formats upon request**

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If you have comments or questions about this annual report,  
please send them to [ombudsman@ombudsman.mb.ca](mailto:ombudsman@ombudsman.mb.ca).

# Ombudsman's Message



Jill Perron

I am deeply honoured to serve as your Manitoba Ombudsman and pleased to present my office's 2019 Annual Report.

An annual report is one of the key opportunities for the ombudsman to communicate to the legislature and the public about the office's operations and progress over the course of the year. This report quantifies the contacts to our office, identifies challenges and changes in our operations and highlights our education and outreach efforts. It also features case summaries of our work. Each activity undertaken is guided by the values of independence, impartiality, transparency and accountability, as we work to fulfill the office's broad responsibilities under the Ombudsman Act, the Freedom of Information and Protection of Privacy Act (FIPPA), the Personal Health Information Act (PHIA) and the Public Interest Disclosure (Whistleblower Protection) Act (PIDA).

2019 marked another year of leadership transition for the office. Marc Cormier assumed the role of acting ombudsman for the first six months of the year. I would like to thank Marc for ensuring continuance of office operations and for his dedication to serving the province in this capacity. In my first few months in the role, I have been impressed by our skilled, hard-working staff team who take the time to listen to people who contact our office and help them find the right avenue to address their concerns. Their commitment to serve Manitobans is remarkable.

There were 4,095 inquiries and complaints made to the office and we opened 539 investigations, representing a 34 per cent increase over the prior year, primarily due to high numbers of access and privacy complaints and new investigations under PIDA. Most reports containing recommendations are also posted on our website to enable learning, to strengthen the administrative and privacy practices of public bodies or trustees and where possible, make our work transparent to the public. The pages in this report contain summaries of our completed investigation work, showing how our work can benefit Manitobans.

We audited the access to information practices of four provincial departments operating under a centralized service model. As these departments received a significant number of access to information requests, we wanted to understand if they were fulfilling their duty to assist applicants and also determine if responses to access requests were completed within the time limits under the law. Our report made recommendations to improve response times and strengthen communications with applicants, which the departments accepted.

Citizens entrust both their personal and personal health information to governments, health-care providers and other entities. Our office has seen an increase in privacy complaints from citizens as well as proactive breach reports from public entities. This report provides data on the type of breaches and benefits of proactively reporting to our office, highlighting the need for notification law, a recommendation made in the 2017 review of PHIA and FIPPA. A Court of Queens's Bench decision to dismiss an appeal filed by an employee found guilty and fined under PHIA is also included. The decision recognizes that individuals have a fundamental right to privacy – a position supported by information and privacy commissioners across Canada in the joint resolution, *Effective Access and Privacy Legislation in a Data Driven Society*. Public sector entities are turning to new technology to enable the delivery of programs and services, which affects the collection and use of citizen's information. It is important that legislation be amended to meet the needs of Manitobans.

*continued on next page...*

Recommendations in an ombudsman's investigation report are often made where actions or decisions fall short of meeting the broader standard of justice. They seek to prevent a re-occurrence of the problem, promote administrative fairness and improve the quality of services public entities provide to Manitobans. In 2019, we followed up on progress made by the City of Winnipeg in addressing the Handi-Transit recommendations. The city has fully implemented one third of the recommendations, while the remaining are in progress.

Amendments to the Public Interest Disclosure (Whistleblower Protection) Act increased the number of public entities subject to the legislation and provided additional protections for whistleblowers as well as for employees who seek advice or participate in an investigation. The ombudsman's authority was also expanded to investigate employee complaints of reprisal, and to review the procedures of a public body to ensure they are consistent with the act and reflect the elements of procedural fairness. New complaint handling and review processes were developed to ensure we could respond to this new authority, which represents a 30 per cent increase in PIDA case files.

Higher complaint volumes are expected across all mandates in the coming years. A formal external review of our organizational design was initiated to determine the best way to efficiently manage complaints within our current resourcing level. The review found new strategies were needed to manage complaints in the Access and Privacy Division. It also identified ways to enhance our existing information management system to improve workflow, expand data capacity and enable us to increase the quality of our service to the Manitobans who contact us and to public entities, now and into the future. As the information systems supports all areas of the office, the same external review will focus on the Ombudsman Division in 2020.

We continue to focus on education and outreach activities that help public entities understand the work of our office. In addition to presentations and training events held with public entities, a series of infographics were created to inform citizens about their right to access, privacy and fair treatment and to increase awareness about the role of our office. We collaborated with other jurisdictions to create tools for students to learn about privacy and are working on a self-assessment guide to help public entities strengthen their approach to administrative fairness. We also opened our satellite office in Thompson, increasing access to ombudsman services for the people living in northern Manitoba.

Within the first six months of my appointment as ombudsman, I met with other federal and provincial independent officers at the annual meetings of the Canadian Council of Parliamentary Ombudsman, public interest disclosure commissioners and information and privacy commissioners. These meetings are unique opportunities to discuss current challenges, best practices and emerging issues that impact our jurisdictional and collective work. There are matters such as the public sector's shift to digital systems and increasing use of advanced technology to support decision making and delivery of public services that are common to these independent oversight offices. Modernized service delivery requires administrative fairness in decision-making processes and privacy protection structures that will meet the needs of citizens. These issues will help shape the work of our office in 2020 and onward.

As a newly appointed ombudsman, I want to thank the dedicated staff team and the members of the Legislative Assembly branch for their encouragement and support as I take on this new role. As I look toward 2020 and beyond, I am excited about the opportunity to continue to listen and learn from the people who call our office and work with my staff team and independent colleagues, and as I continue to fulfill my oversight responsibilities in promoting administrative fairness, transparency, privacy protection and good governance for an ethical and accountable public service for Manitobans.



# About the Office

Manitoba Ombudsman is one of the independent offices of the Legislative Assembly of Manitoba. In 1970, the ombudsman role was established to act on behalf of citizens when they had a grievance with government. Since then, the ombudsman's mandate has expanded to encompass access to information, privacy and whistleblower matters and the number of public sector organizations that fall under the jurisdiction of the ombudsman has increased.

Manitoba's Ombudsman Act incorporates the hallmarks of legislative ombudsmen seen in many jurisdictions around the world:

- » independence of the office
- » broad powers of investigation
- » informal procedures for conducting investigations
- » non-adversarial approaches to the resolution of problems
- » the power to make recommendations
- » the power to report publicly

## What we do and how we work

The ombudsman conducts independent, impartial, and non-partisan investigations into complaints about access to information and privacy matters, the fairness of government actions or decisions, and serious wrongdoings that people believe may have occurred.

The ombudsman's broad powers of investigation are set out in:

- » The Ombudsman Act (1970)
- » The Personal Health Information Act (1997)
- » The Freedom of Information and Protection of Privacy Act (1998)
- » The Public Interest Disclosure (Whistleblower Protection) Act (2007)

Making a complaint to the ombudsman can provide an opportunity to:

- » Give citizens an avenue to express their concerns.
- » Revisit an issue with fresh and impartial eyes.
- » Change the status quo.
- » Help public bodies improve policies, procedures or practices.
- » Communicate the public body's decisions and actions in an open and transparent way.
- » Increase compliance with access and privacy legislation.
- » Increase transparency, openness and accountability.

Ombudsman staff attempt to resolve complaints informally at the earliest possible stage. If, after an investigation, the ombudsman finds that a complaint is justified, he or she may recommend a remedy.

Investigations are conducted in private and information collected in the course of our work is held in confidence.

In many situations, ombudsman staff also provide information and advice and refer people who contact our office to other avenues that may be helpful to resolve their concerns.

The office's mission is to promote and foster openness, transparency, fairness, accountability, and respect for privacy in the design and delivery of public services.

## 2019 OVERVIEW: INQUIRIES, COMPLAINTS AND INVESTIGATIONS

### 4,095 INQUIRIES AND COMPLAINTS

**3,627** Intake staff handled 3,627 inquiries and complaints related to the Freedom of Information and Protection of Privacy Act (FIPPA), the Personal Health Information Act (PHIA), the Ombudsman Act and the Public Interest Disclosure (Whistleblower Protection) Act

**468** The administration team also handled 468 general inquiries.

### 539 INVESTIGATIONS OPENED

**390** FIPPA

**39** PHIA

**104** Ombudsman Act

**6** PIDA

### 28 INQUEST RECOMMENDATIONS MONITORED

**28** 4 inquest reports with 28 recommendations were received from the Provincial Court of Manitoba

### 9 INVESTIGATION REPORTS POSTED ON WEBSITE

**5** FIPPA

**2** PHIA

**2** Ombudsman Act

## Collaboration, Education and Outreach

The ombudsman and staff support and further the goals of the office by collaborating with other oversight offices on issues of mutual interest and concern, attending and hosting meetings and events, and delivering presentations and training sessions.

### Interjurisdictional collaboration

In 2019, we joined our access and privacy colleagues from across Canada to issue a joint resolution that called on governments to modernize access and privacy legislation to better protect Canadians.

We also collaborated on a working group on youth privacy issues led by the Office of the Privacy Commissioner of Canada, which published new resources:

- activity sheets for younger children to learn about privacy concepts, including connect the dots, a word search, a colouring activity and a “snakes and ladders” game
- a privacy-themed poster aimed at students in grades 4-6

Our office participated in a working group with ombudsman representatives from Saskatchewan, Nova Scotia, Yukon and British Columbia to develop *Fairness by Design: An Administrative Fairness Self-Assessment Guide*. The guide, intended for public release in 2020, is to help public bodies consider fairness when developing policies and processes.

We also participated in the Symposium on the Future of the Parliamentary Ombudsman hosted by the BC Ombudsperson.

### Student partnerships

To connect with a younger demographic and to create interest in the work of our office, we hosted two students in 2019:

- a Red River College student in the Community Development program
- a University of Manitoba law student

We also hosted two interns from the legislative internship program for a week prior to the 2019 provincial election.

## Presentations

To help others understand the mandate and work of our office, we delivered 16 presentations about the office to:

- not-for-profit groups
- civil servants
- deputy ministers of Manitoba government departments
- new members of the Legislative Assembly of Manitoba
- municipal administrators and officials

We delivered training tailored to specific audiences at the following conferences and workshops:

- a privacy-related session at the Southern Health-Santé Sud annual PHIA Day
- a session on privacy breaches at the Manitoba Connections: Access, Privacy, Security and Information Management Conference
- a FIPPA session for the Canadian Association of Journalists (Manitoba chapter)
- a youth corrections panel presentation at the Forum of Canadian Ombudsmen annual conference
- public interest disclosure sessions for the Manitoba School Administrators Association and a school division

Access and Privacy staff host Brown Bag Talks in our office, which are informal discussions led by staff with participation by access and privacy coordinators and officers. In 2019 we held two talks:

- Key Steps in Responding to Privacy Breaches
- Documentation about Processing Access Requests under FIPPA

## Events

We strive to increase awareness of the office and seek opportunities to engage in informal discussions with others about our work and to distribute ombudsman materials and promotional items. We participated in the following events:

- Law Day in Winnipeg and Brandon
- Powwow at Agassiz Youth Centre
- Manitoba Social Science Teachers Association PD day conference, Winnipeg
- Association of Manitoba Municipalities Annual Convention, Brandon

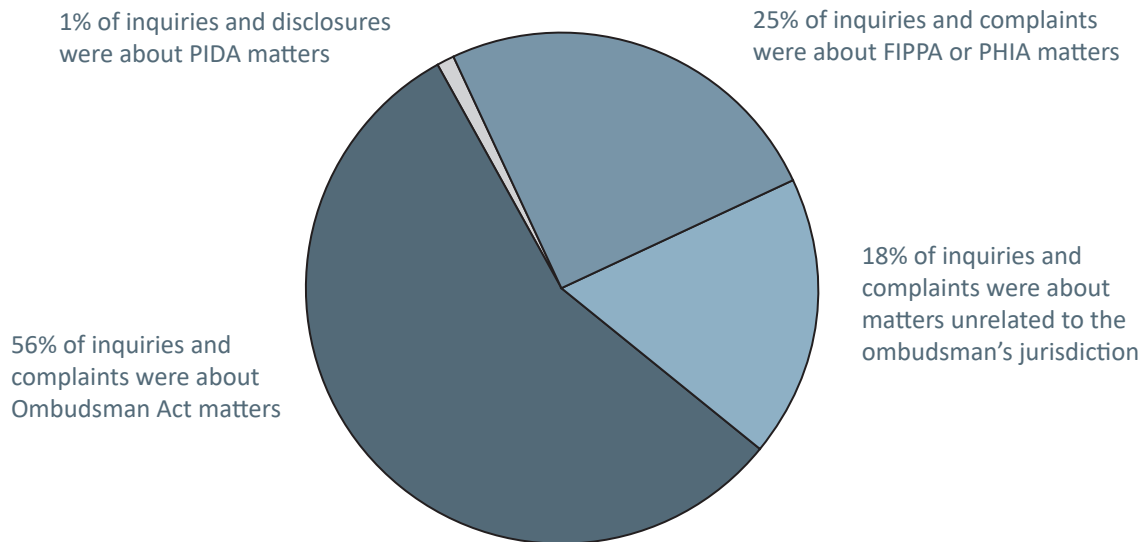
### Thompson office opening

In April 2019 we officially opened a satellite office in Thompson, shared with the Manitoba Advocate for Children and Youth. About a hundred people gathered in City Centre Mall to mark the occasion with a traditional feast and welcoming remarks. The office is part of a pilot project to more effectively connect people in Thompson and the north with the ombudsman's and advocate's services.



# Intake Services

All public inquiries and complaints received by our office are handled by intake staff who hold a lot of information about citizens' rights and government systems and processes. In 2019, intake staff handled **3,627** inquiries and complaints.



As the first point of contact with the public, intake staff accept calls from the public, meet with complainants and respond to emails, written inquiries, complaints and disclosures. Our staff team provide assistance by:

- explaining the role and function of our office
- explaining citizens' rights under the acts and how to exercise them (for example, how to request one's own personal health information from a health-care provider)
- identifying the specific nature of complaints
- assessing jurisdiction
- explaining other avenues of review or appeal
- making preliminary inquiries about complaints
- reviewing documentation and conducting research
- preparing cases to be opened for investigation
- referring people to resources, including brochures and guides on our website, as well as information and resources from other organizations
- making appropriate referrals for non-jurisdictional concerns

"I very much appreciate you looking into this matter and then getting back to me with such a detailed explanation. That goes a long way in terms of validation which is very helpful in itself – just to see that you took the matter seriously."

"Thank you for helping me with my concern. Grateful for your intervention in this and appreciate whatever help you gave me."

## Intake examples

When complainants have tried to resolve their concerns but have not been able to do so for a variety of reasons, intake staff will try to informally resolve an issue by connecting with the public entity involved. Sometimes facilitating communication between an individual and the right person at the organization being complained about is all that is required to achieve resolution. At other times, making some preliminary inquiries to obtain more information about the matter being complained about can prompt an organization to revisit and amend their initial decision. For example:

- » An inmate contacted our office as he was having difficulty arranging medical treatment after an amputation. He was told that he would receive physiotherapy, but when he was transferred to another correctional facility, staff advised him that physiotherapy was not approved. Our office contacted the health services manager at the facility to inquire about the inmate's request and to clarify the procedure for arranging treatment. In this case, the facility's superintendent met with the inmate to explain the process and treatment was arranged within one month of receiving the complaint.
- » An individual, frustrated with the Maintenance Enforcement Program (MEP) and Employment and Income Assistance (EIA), contacted our office for help. The individual was not receiving a MEP payment awarded by the court and needed to apply to EIA to supplement her income. After the individual applied to EIA, MEP was able to collect the funds. Interested in switching back from EIA to MEP, the individual was not able to obtain information from either program about how to do this. Intake staff were able to request that staff from the programs communicate more clearly with the individual. MEP funds to the individual were issued within two weeks of the complaint.

Most intake work under PIDA is related to providing information about the act and establishing whether matters should be submitted to our office in writing for further assessment as a disclosure of wrongdoing or a complaint of reprisal. For example, an individual contacted our office about protecting their employment status by filing a complaint of reprisal. We explained to the individual how reprisal protection is established for whistleblowers and that, based on the information provided to us, the individual had not taken any actions under PIDA that would result in protections as a whistleblower. The individual's concerns were about employment matters rather than significant and serious matters of public interest, and the actions taken by the employer were not reprisal actions as defined by PIDA. We advised the individual, who was a unionized employee, that the union was the appropriate place to go with their concerns.

Through early resolution, intake staff were able to address a number of access and privacy concerns. The following activities resulted in resolution of the complainants' issues:

- Some involved discussions with complainants about their concerns and in some cases, with the public bodies and trustees. Clarifying the issues can result in being able to address concerns of the complainant.
- In other cases where insufficient information was provided about the complaint, intake staff worked with the complainant to help identify their concerns and whether they related to matters we can investigate.
- Some complaints were filed prematurely with our office before the public body had made an access decision. In these cases, intake staff explained the access to information process and timelines to the complainants.

"Thank you for your email and for taking my call earlier today...I appreciate the advice you provided. Will definitely follow up using the official feedback form you suggested. This situation has been so stressful that any small act of kindness goes a long way. Thank you for your act of kindness even though you were just doing your job – it means so much more to me."



# Access and Privacy

## The Freedom of Information and Protection of Privacy Act The Personal Health Information Act

The **Freedom of Information and Protection of Privacy Act** (FIPPA) governs access to general information and personal information held by public bodies and sets out requirements that they must follow to protect the privacy of personal information contained in the records they maintain.

FIPPA applies to:

- provincial government departments, offices of the ministers of government, the office of the executive council, and agencies including certain boards, commissions or other bodies
- local government bodies such as the City of Winnipeg, municipalities, local government districts, planning districts and conservation districts
- educational bodies such as school divisions, universities and colleges
- health-care bodies such as hospitals and regional health authorities

The **Personal Health Information Act** (PHIA) provides people with a right of access to their personal health information held by trustees and requires trustees to protect the privacy of personal health information contained in their records.

PHIA applies to:

- public bodies (as set out for FIPPA)
- health professionals such as doctors, dentists, nurses and chiropractors
- health-care facilities such as hospitals, medical clinics, personal care homes, community health centres and laboratories
- health services agencies that provide health care under an agreement with a trustee

### The ombudsman's role under FIPPA and PHIA

The ombudsman investigates complaints from people who have concerns about any decision, act or failure to act that relates to their requests for information from public bodies or trustees, or a privacy concern about the way their personal or personal health information has been handled. For example, a person can make a complaint if he or she believes a public body or trustee has:

- not responded to a request for access within the legislated time limit
- refused access to recorded information that was requested
- charged an unreasonable or unauthorized fee related to the access request
- refused to correct the personal or personal health information as requested, or
- collected, used or disclosed personal or personal health information in a way that is believed to be contrary to FIPPA or PHIA

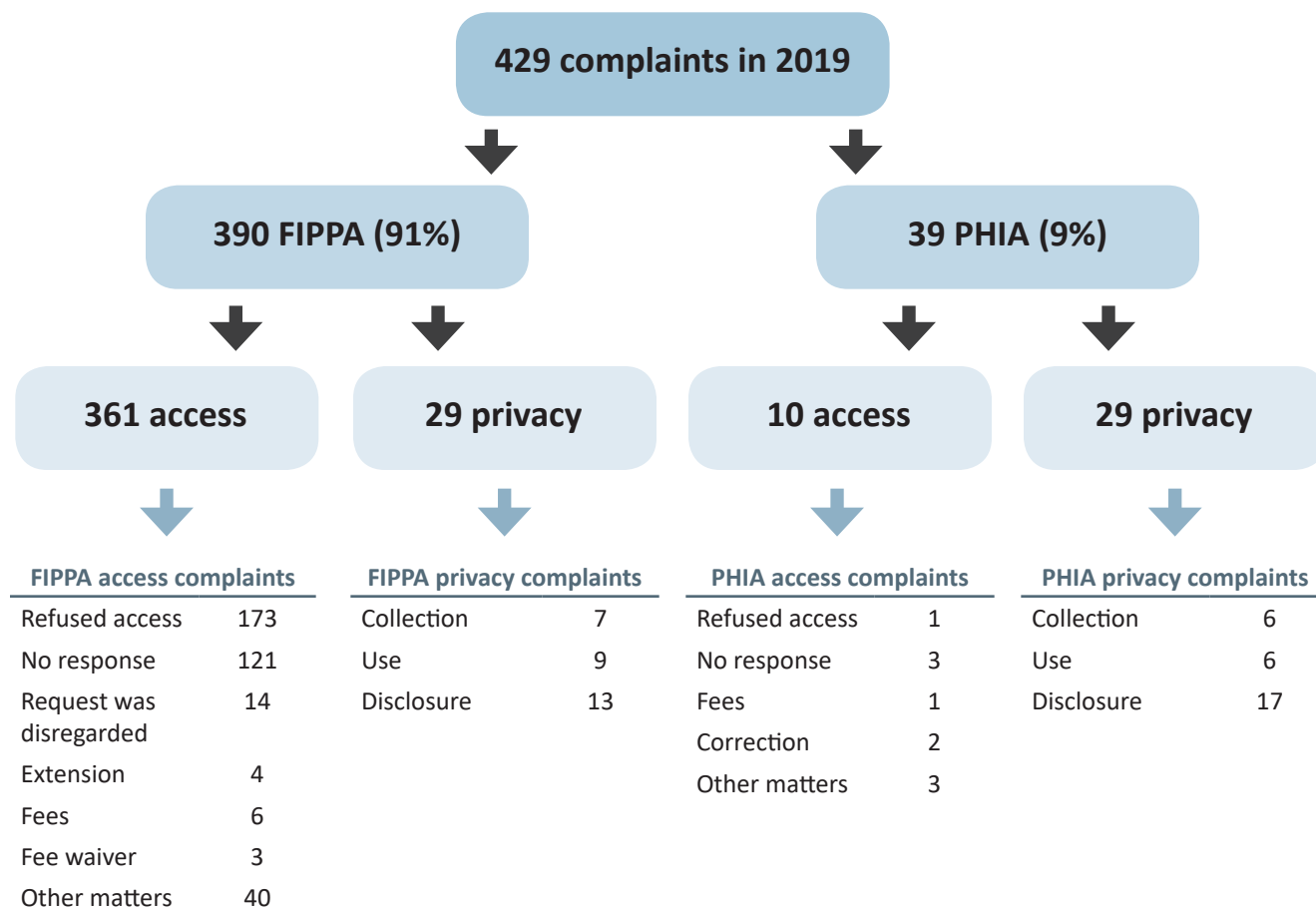
The ombudsman has additional duties and powers under FIPPA and PHIA, and these include:

- conducting audits to monitor and ensure compliance with FIPPA and PHIA
- commenting on the implications of proposed legislation or programs affecting access and privacy rights
- commenting on the implications of the use of information technology in the collection, storage, use or transfer of personal and personal health information
- informing the public about FIPPA and PHIA and receiving comments from the public

## FIPPA and PHIA Overview 2019

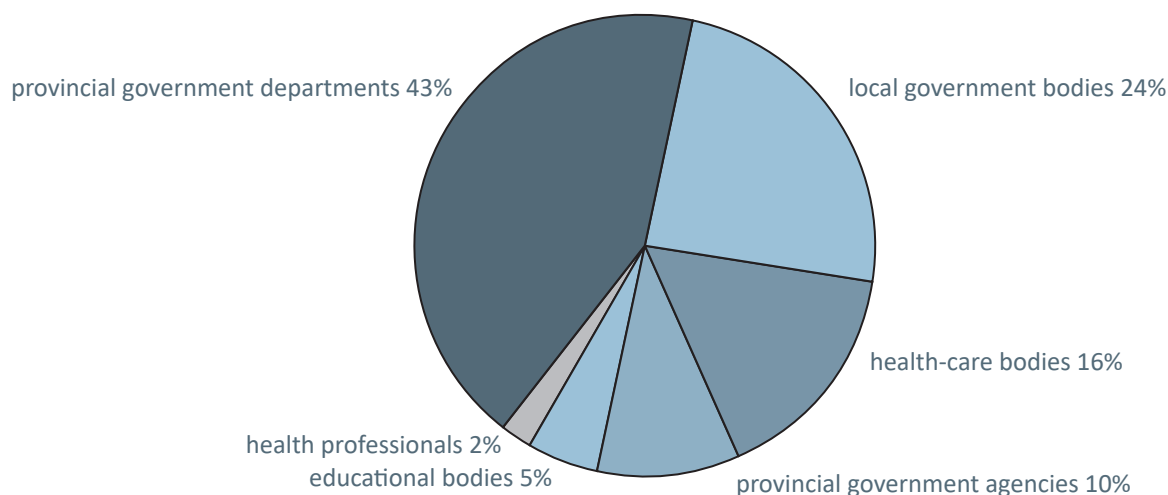
<b>429</b>	new complaints opened for investigation	<b>7</b>	investigation reports posted on our website
<b>55</b>	other complaints dealt with informally at intake stage	<b>5</b>	access and privacy presentations
<b>32</b>	privacy breaches reported to our office by public bodies and trustees	<b>3</b>	practice notes published
<b>17</b>	requests for approval of longer extensions of the time limit for responding to access requests	<b>3</b>	infographics for the public
<b>88</b>	informal consultations with public bodies and trustees		

The investigation of complaints from citizens continued to be our primary focus throughout 2019. We commenced investigations in response to 429 of the complaints we received. As 107 of the complaints under investigation during 2018 continued to be investigated in 2019, our workload of complaints totaled 536 investigations. We closed 379 (71 per cent) of the total complaints during 2019.





## Distribution of FIPPA and PHIA complaints in 2019 by type of public body or trustee



## Outcomes of 379 complaint investigations completed

<b>179</b>	Supported in whole or in part, meaning that there was substance to the complaint. Nearly all were rectified by public bodies and trustees as a result of the investigation, with the exception of one case that required a recommendation be made by the ombudsman.
<b>106</b>	Not supported at all, meaning that no aspect of the complainants' concerns were determined to be well-founded.
<b>49</b>	Resolved during the investigation without the need to make findings, by investigators working with complainants and public bodies/trustees to address the complainants' concerns.
<b>45</b>	Discontinued or declined

	Total	Declined or discontinued	Supported in part or in whole	Not supported	Resolved	Recommendation made
<b>FIPPA Complaints Closed</b>						
<b>Type of Access Complaint</b>						
Refused access	143	16	38	60	28	1
No response	129	7	113	-	9	-
Request was disregarded	14	5	3	4	2	-
Extension	3	-	-	2	1	-
Fees	3	-	1	2	-	-
Fee waiver	3	-	-	2	1	-
Other access matters	31	5	7	14	5	-
<b>Type of Privacy Complaint</b>						
Collection	6	2	1	3	-	-
Use	9	3	2	4	-	-
Disclosure	7	3	2	2	-	-
<b>TOTAL</b>	<b>348</b>	<b>41</b>	<b>167</b>	<b>93</b>	<b>46</b>	<b>1</b>

	Total	Declined or discontinued	Supported in part or in whole	Not supported	Resolved	Recommendation made
<b>PHIA Complaints Closed</b>						
<b>Type of Access Complaint</b>						
Refused access	2	-	1	1	-	-
No response	4	-	1	1	2	-
Other access matters	1	-	-	1	-	-
<b>Type of Privacy Complaint</b>						
Collection	6	2	2	2	-	-
Use	6	1	3	2	-	-
Disclosure	12	1	4	6	1	-
<b>TOTAL</b>	<b>31</b>	<b>4</b>	<b>11</b>	<b>13</b>	<b>3</b>	<b>-</b>

For more detailed information about FIPPA and PHIA complaint investigations, please see the tables on pages 38-40.



## Access to Information Matters

### 2019 trends:

- » Nearly half of the access complaints (173 of 361 complaints or 48 per cent) were made about public bodies' decisions to refuse access to the requested records.
- » Over one third of complaints (133 of 361 complaints or 37 per cent) related to public bodies' non-compliance with legislated time frames to respond to access requests. Of these 133 complaints about no response, 103 were made about provincial government departments and agencies.

### FIPPA timeliness audit

The ombudsman may conduct audits to monitor and ensure compliance with FIPPA and PHIA. In 2019, we completed an audit into the access to information practices of four public bodies: Manitoba Finance, Executive Council Office, the Civil Service Commission and Manitoba Crown Services. FIPPA services for the four public bodies are centralized with Manitoba Finance.

The audit examined 120 FIPPA files over a six-month period ending in May 2018 to review:

- The public bodies' timeliness and compliance in meeting the legislated timelines under FIPPA when responding to requests.
- Whether the public bodies communicated with applicants after receiving the requests, in keeping with the duty to assist applicants.

The audit identified the following issues:

- Response times in many cases exceeded the legislated time limit and time extensions for responses were not used.
- Communication with applicants throughout the access to information process was limited.
- Documentation about the management of information, processing of access requests and decisions in the FIPPA files was inconsistent and not centralized.

The ombudsman made five recommendations to improve the public bodies' response times and aid in strengthening communication with applicants and compliance with FIPPA, including that the public bodies:

- Not reveal the type of applicant if it is not necessary for processing the access request or may reveal the applicant's identity.
- Assess FIPPA processes and resource needs, in order to comply with legislated time limits.
- Acknowledge the receipt of FIPPA applications and provide a FIPPA reference number and point of contact for applicants.
- Standardize FIPPA process documentation and maintain it in a centralized location.
- Routinely assess and consider releasing access records through proactive disclosure.

The public bodies accepted all five recommendations. The report incorporating the responses to the recommendations was published in 2020 and is on our website.

## Access to information investigation reports

Our investigation reports describe the issues we considered in the case, explain our interpretation of provisions of FIPPA and PHIA, and contain any findings and recommendations the ombudsman considers appropriate about the complaint. We publish reports with recommendations on our website, along with a selection of other reports where we have supported, partly supported, or not supported complaints, as well as when complaints have been resolved without making findings. In 2019, we published five access-related investigation reports, some of which are highlighted on the following pages.

### **FIPPA Case 2018-0016**

#### **Recommendation made**

**21(1)(a)  
Harm relations  
between  
Manitoba and  
Canada**

**25(1)(n)  
Harm legal  
proceedings**

**28(1)(c)(iii)  
Harm  
negotiations**

Manitoba Intergovernmental Affairs and International Relations refused access to a request for correspondence with a third-party business and/or the federal government regarding the Port of Churchill and Hudson Bay Railway. The refusal was made on the basis that disclosure of the records could harm government of Manitoba's relationship with the government of Canada, harm legal proceedings, or harm negotiations with the government of Canada. The withheld records consisted of three email chains and various attachments, referred to as records a, b and c.

With respect to records a and b, we determined that this correspondence between the department and the third-party business discussed specific issues and positions. The same issues were the subject of legal proceedings between the government of Manitoba, the government of Canada and the third party. We found that disclosure of the information could reasonably be expected to be injurious to the conduct of existing or anticipated legal proceedings and therefore clause 25(1)(n) applied. We also found that information contained in records a and b could be used either during the ongoing legal proceedings or for future negotiations with the third-party business or the government of Canada, and therefore subclause 28(1)(c)(iii) also applied.

With respect to record c, the department indicated that the email was a part of the government of Manitoba's negotiations with the federal government. The department explained that the negotiations were ongoing and that the disclosure of this record would harm the negotiations with the government of Canada. Based on our review of the information in record c, we concluded that it was largely information that had been available to the public and that it did not contain confidential information, which if disclosed, could reasonably be expected to interfere with or prejudice negotiations with the federal government, or reasonably be expected to harm the relationship between the provincial and federal governments.

The complaint was partly supported as we found that the claimed exceptions applied to records a and b, and that the claimed exceptions did not apply to record c. The ombudsman recommended that record c be released to the complainant. The department accepted the recommendation and complied with it by providing the complainant with the record.

**FIPPA  
Case 2018-0112**

**Complaint  
supported**

**18(1)(b)  
Labour relations  
information  
supplied by a  
third party**

Manitoba Growth, Enterprise and Trade refused access to part of an advisory note for the minister of the department on the basis that it would reveal labour relations information supplied by a third party in confidence. The advisory note was created by the department as a result of a discussion paper submitted by a third-party organization. Although the advisory note referenced information or positions discussed in the third-party organization's paper, the withheld information was about general labour relations issues and views about various aspects of Manitoba labour law.

We found that the advisory note discussed the current state of the law in Manitoba and in other jurisdictions and did not address specifics of labour relations between specific employers or groups and their employees. Based on this, we were of the opinion that the withheld information would not be the third-party organization's labour relations information as contemplated under the exception in section 18 of FIPPA. We also concluded that the evidence did not establish that the information was supplied in confidence by the third party to the department or that the information had been treated consistently as confidential by the third party.

As we found that the provision relied on by the department did not apply to the withheld information, the complaint was supported. We provided our analysis to the department to review and consider. The department agreed to release all of the previously withheld information to the complainant.

**FIPPA  
Case 2019-0111**

**Complaint not  
supported**

**27(1)(a)  
Solicitor-client  
privilege**

Manitoba Infrastructure refused access to a request for a legal opinion on US Carriers being exempt from safety fitness certificate requirements. The refusal was made on the basis of solicitor-client privilege. The complainant advised our office that, as a summary of the opinion had been provided to him in an email from a departmental employee, the department had waived privilege over the information and the solicitor-client privilege exception could not be applied. The complainant also stated that the department was relying on undisclosed advice from legal counsel to make a regulatory decision affecting them and, in the absence of the opinion, the complainant was unable to assess the opinion's relevance.

Our investigation first determined that the legal opinion was subject to solicitor-client privilege on the basis that it is a communication between a lawyer and the lawyer's client, that the communication entails the giving or seeking of legal advice, and that the communication was intended to be confidential. Secondly, we considered whether solicitor-client privilege over the opinion could be shown to have been waived by the actions of the department, in which case, clause 27(1)(a) of FIPPA could not be relied on to refuse access. The department acknowledged that solicitor-client privilege may be waived in one of two ways: the client (in this case, the department) is aware of the privilege that attaches to the communication and voluntarily, intentionally and explicitly relinquishes it; or, a waiver of privilege may be implied (suggested by action or effect). One kind of implied waiver may occur through the partial disclosure of privileged information, where voluntary waiver of privilege for part of a communication is held to be a waiver of privilege for the entire communication.

We considered that the department's decision to provide a summary of the opinion by email was evidence of a clear intention to respond to the complainant's inquiries while at the same time retaining the confidentiality of solicitor-client privilege over the full legal opinion. The department maintained that, at no time, was there an express intent to waive privilege. We found that the department had not waived its privilege over the opinion as a result of having shared some information about the opinion with the complainant by email. The complaint was not supported because the refusal of access to the opinion was authorized under clause 27(1)(a) of FIPPA.

FIPPA  
Case 2018-0302

Complaint partly  
supported

9  
Duty to assist

12(1)(c)(i)  
Records do not  
exist or cannot be  
located

Manitoba Hydro refused access to a letter it identified as responsive to a request for mandate letters for 2017/18 and 2018/19, on the basis that it was a draft and was not in its custody or control for the purposes of FIPPA. A mandate letter, as described under the Crown Corporation Governance and Accountability Act (the CCGA Act), may be created for a corporation to set out the government's goals for the corporation, the specific outcomes to be achieved by the corporation during the applicable period and the performance measures that are to be used to determine if the specific outcomes have been achieved. Mandate letters, once signed or otherwise approved by the minister, must be made public within 30 days, as required by the CCGA Act. Prior to the CCGA Act coming into effect, 'framework letters' outlining the terms of engagement for the Crown corporations and how the government planned to work with those Crown corporations were posted online on the government's proactive disclosure web pages.

Our investigation determined that Manitoba Hydro had mistaken a draft framework letter for a draft mandate letter. The framework letter in question was publicly available online. Manitoba Hydro had not received a mandate letter, or draft of a mandate letter, as described by the CCGA Act, and therefore no responsive record existed. Further to our investigation, Manitoba Hydro contacted the complainant to provide an additional explanation and to apologize for the confusion arising from its initial misunderstanding of the nature of the requested record. Although Manitoba Hydro's initial refusal of access decision was based on a mistaken identification of the responsive record, as the mandate letter did not in fact exist, access continued to be refused on this basis, and the complaint was partly supported.

## Longer extensions of the time limit for responding to FIPPA requests

FIPPA requires that a public body respond to an access request within 30 days of receiving it. The public body may extend the time limit for up to an additional 30 days in certain circumstances, such as:

- when a large number of records is requested or must be searched
- when responding within the time limit would interfere unreasonably with the operations of the public body
- when time is needed to consult with a third party or another public body before deciding whether to give access to a record

If the public body determines that responding to the request will require more than a total of 60 days, it may request approval from the ombudsman for a longer extension. For a longer extension to be approved, the public body must demonstrate that an extension is permitted under FIPPA and that the amount of additional time being sought is reasonable.

In 2019, our office received 17 requests from public bodies for approval of longer extensions. Of these, 12 were approved, three were not approved and two were withdrawn by the public bodies.

Seeking authorization from our office for a longer extension is a time-sensitive process. To assist public bodies, we have:

- a Longer Extension Request Form, which can be submitted online through our website or filled out electronically and submitted by email or fax
- a practice note, *Making a Submission to the Ombudsman for an Extension Longer than 30 Days under the Freedom of Information and Protection of Privacy Act*, to provide more detailed information

These resources can be found on our website.

# Privacy Matters

## PHIA fine for snooping stands

In March 2019, the Court of Queen’s Bench dismissed the appeal by a former employee of a trustee who had been sentenced to a fine for an offence committed under PHIA. Further to a trial held by the Provincial Court in 2017, the employee was found guilty of an offence and issued a sentence of a fine of \$7,500. The employee appealed this sentence to the Court of Queen’s Bench. As the appeal was dismissed by the court, the fine of \$7,500 stands.

In this case, the employee had wilfully accessed personal health information in the databases of the Provincial Drug Program branch within Manitoba Health, Seniors and Active Living, for a purpose not related to their work, which is contrary to PHIA. The department reported this breach to the ombudsman and we initiated an investigation.

PHIA permits the ombudsman to disclose information to the minister of justice and attorney general (the Crown), if the ombudsman has reason to believe that an offence has been committed under the act. However, personal health information may only be disclosed by our office if we have the consent of the individual the information is about. In this case, the ombudsman disclosed personal health information of one individual who provided consent for the purpose of disclosing this offence to the Crown. This resulted in the Crown authorizing the ombudsman, in 2016, to charge the employee with an offence under PHIA.

Citizens entrust their personal health information to health care providers, facilities, government and other public bodies. The abuse of that trust through the intentional unauthorized access to personal health information (snooping) by an employee is a serious matter under PHIA. PHIA was amended in December 2013 to make it an offence for an employee of a trustee to wilfully use, gain access to, or attempt to gain access to another person’s personal health information. For example, if an employee is given access to personal health information to perform their job duties and deliberately accesses the information for purposes other than to perform those duties, this would constitute an offence under PHIA.

## Privacy investigation reports

In 2019, we published two privacy-related investigation reports on our website.

<b>PHIA</b> <b>Case 2019-0266</b>	A worker complained that her personal health information was disclosed by the Workers Compensation Board (WCB) to her employer as part of the process for a reconsideration of an adjudicator’s decision. The worker consented to the disclosure of the claim file information, but after the disclosure was made the WCB determined that it would not be proceeding with the reconsideration and the matter was sent back to the adjudicator for review. The WCB retrieved the complainant’s information as there was no longer any purpose for the employer to have this information. Our office found that the disclosure was authorized under PHIA as it was made with the worker’s consent and while the reconsideration process was ongoing.
<b>Complaint not supported</b>	
<b>19.1(1) and (2)</b> <b>Elements of an individual’s consent for use or disclosure of personal health information</b>	
<b>22(1)(b)</b> <b>Authorization to disclose with consent</b>	The circumstances of this case highlighted the importance of ensuring that there is a thorough assessment to determine whether there are sufficient grounds for proceeding with a reconsideration or appeal before an employer receives sensitive employee personal health information. It also demonstrated that timely retrieval of claim file information from an employer in the event the appeal does not proceed, is necessary to protect the privacy of the worker. The WCB met with staff on the importance of thorough screening before starting the file disclosure process to release information to the employer. In the event that a file is released to the employer and the appeal is subsequently sent back to the adjudicator for review, a note will be sent to the File Access Unit tasking them with retrieving the file from the employer as soon as possible.

**PHIA  
Case 2017-0143**

**Privacy breach  
report**

**Use, disclosure  
and security of  
personal health  
information  
relating to MRI  
services**

This case concerned a privacy breach involving the personal health information of 91 patients who received magnetic resonance imaging scans within the Winnipeg Regional Health Authority (WRHA) between 2008 and 2016. The patients' health information was disclosed in violation of PHIA to several media organizations.

The ombudsman reviewed the steps taken by the WRHA to address the privacy breach. We determined that the WRHA acted as quickly as possible in the circumstances to identify and notify affected individuals. The WRHA's notification letters provided the victims of the breach with relevant details and appropriate contact information both for the chief privacy officer as well as for our office. The WRHA also conducted an in-depth internal review of the breach and provided a copy of its report to our office. The internal review confirmed who within the WRHA had a copy of each record that had been provided to media organizations, if/how each record was shared internally by WRHA staff, and how each record involved in the breach had been stored by WRHA staff. The source of the disclosure could not be determined.

The ombudsman also examined the steps taken to safeguard the personal health information and identified preventative measures to minimize the risk of privacy breaches in the case of bulk disclosures of personal health information of many individuals. This included the following measures: engaging the privacy officer in the decision-making process; developing a plan for the bulk disclosure to ensure the amount of personal health information about individuals is limited to that which is necessary and is based on the recipient's need to know the specific information; and ensuring that mechanisms are in place for the trustee to be accountable to individuals for the disclosure of their personal health information.

## Reviews of privacy breaches reported to the ombudsman

Unlike in other provinces, reporting privacy breaches to our office is not mandatory under Manitoba's FIPPA and PHIA. In response to the Manitoba government's legislative reviews of FIPPA and PHIA in 2017, we recommended that public bodies and trustees be required to notify the ombudsman of a privacy breach when there is risk of significant harm to an individual. We encourage public bodies and trustees to self-report privacy breaches to our office where there may be a risk of significant harm to citizens affected by the breach.

### Privacy breaches reported in 2019

<b>32</b>	Privacy breaches were proactively reported to our office – 9 were FIPPA-related and 23 were PHIA-related
<b>26</b>	Privacy breach reviews were completed

To assist public bodies and trustees, we have the following resources on our website:

- a practice note, *Key Steps in Responding to Privacy Breaches under FIPPA and PHIA*
- a practice note, *Privacy Breach Notification Letter Checklist*, which outlines information to provide to affected individuals being notified of a breach
- a Privacy Breach Reporting Form for submitting a breach report to our office

## Benefits of reporting a privacy breach

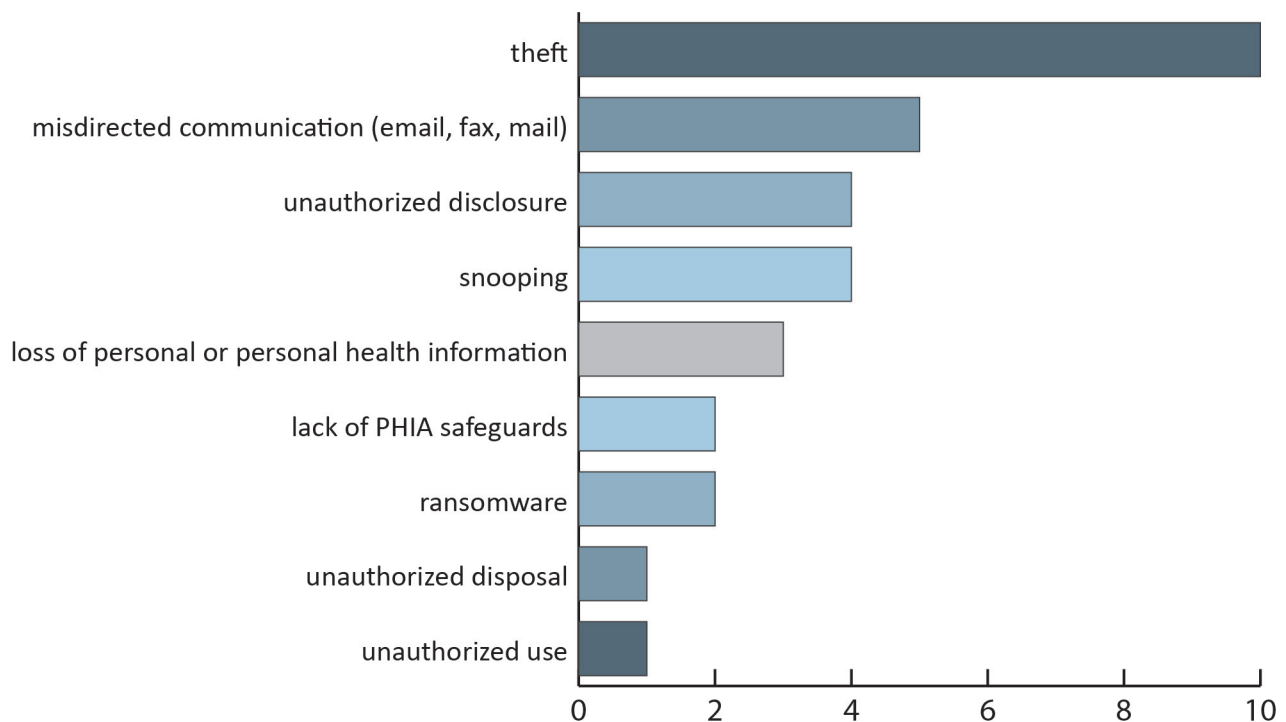
<b>Public bodies and trustees</b>	They can receive guidance from our office about their response to the breach and steps that can be taken to prevent future breaches. Reporting a breach demonstrates accountability for the management of personal and personal health information entrusted to its care by citizens.
<b>Citizens</b>	It provides assurance that serious breaches by public bodies and trustees will be independently reviewed, including a review of the decisions on whether to notify affected individuals so they can take steps to reduce the impact of the breach. Our review also considers steps that can be taken to better protect citizens' information and prevent breaches from occurring.
<b>Ombudsman</b>	Receiving reports about breaches enables us to respond more proactively, by reviewing the response to the breach and providing guidance on steps that can be taken to mitigate the harm to individuals and prevent future breaches. It also enables us to prepare to respond to potential complaints that may be made from affected individuals.

After receiving a privacy breach report, we conduct a review of how the public body or trustee responded to the breach in the context of these four key steps. We review whether:

- all reasonable steps have been taken by the public body or trustee to contain the breach
- the risks associated with the breach have been thoroughly considered
- affected individuals have been notified
- all appropriate measures are being implemented to prevent future occurrences

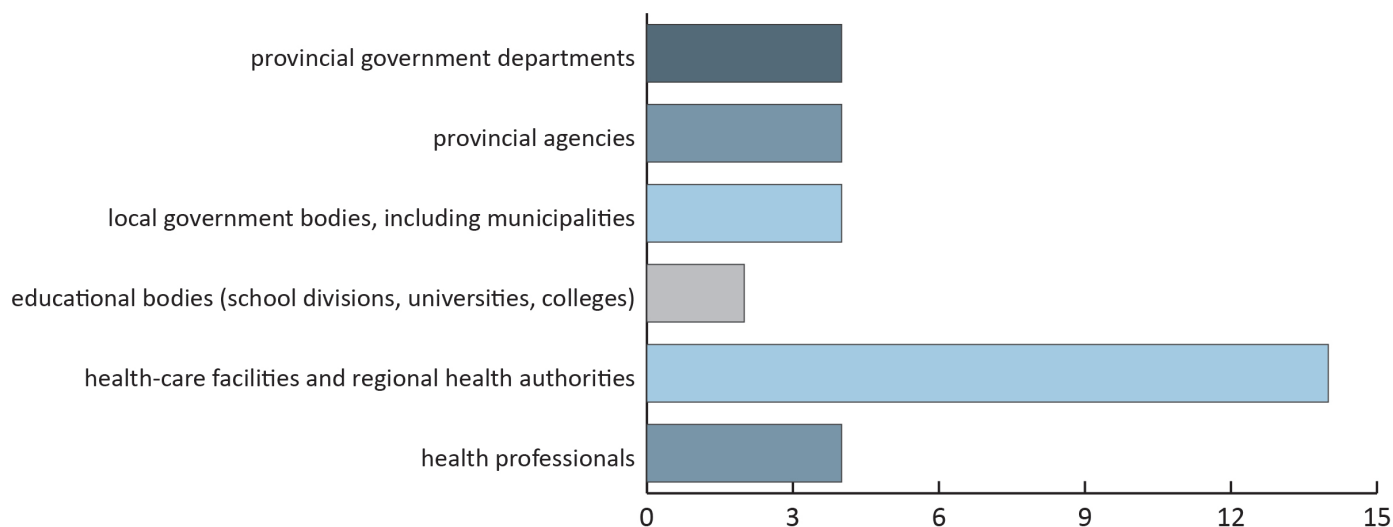
In some cases, we may decide to conduct our own investigation of a breach.

## Types of privacy breaches reported in 2019





### Categories of public bodies and trustees that reported privacy breaches to our office in 2019



### Outcomes of the 26 privacy breach reviews completed in 2019

<b>25 cases*</b>	Resulted in the implementation of administrative safeguards (the policies and procedures that help protect against a breach ex: the development and/or review of policies and procedures and staff training)
<b>17 cases</b>	Resulted in the public body or trustee notifying the affected individuals about the breach
<b>13 cases</b>	Resulted in the implementation of physical safeguards (physical controls that protect personal and personal health information ex: security systems, door/window locks, and visitor access controls)
<b>7 cases</b>	Resulted in the implementation of technical safeguards (the technology and related policies that protect personal and personal health information from unauthorized access ex: encryption, passwords, and user access)

\* An individual case may have multiple outcomes



# Supporting the Work of Public Bodies and Trustees: Informal Consultations and Outreach

Public bodies and trustees contact our office for guidance to assist them in dealing with challenging access and privacy issues. During these consultations we may discuss factors to consider in interpreting and applying provisions of FIPPA and PHIA, provide guidance on best practices to follow, and refer them to investigation reports or practice notes or other resources on our website. Although we cannot provide an advance ruling on a matter (as we may receive a complaint about the decision that the public body or trustee ultimately makes) we can provide advice to assist them in their decision-making process.

We also initiate informal consultations with public bodies as a result of new initiatives or programs with potential privacy implications being reported in media stories. This helps us learn about the initiatives and understand the steps being taken by the public body to address privacy implications.

During 2019, we had informal consultations about 88 access and privacy matters – 57 related to matters under FIPPA, 30 related to matters under PHIA, and one related to a matter outside of the scope of these acts.

49 consultations related to privacy matters, including:

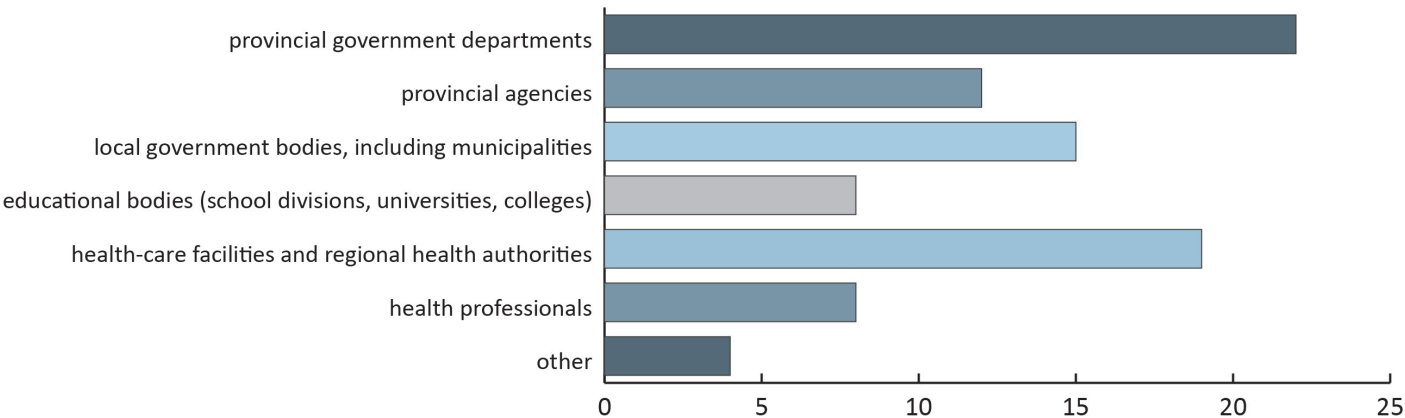
- Factors to consider in interpreting the privacy provisions under FIPPA and PHIA and how the provisions apply in circumstances of collection, use and disclosure of personal and personal health information
- Considerations of reasonable safeguards to protect personal and personal health information
- Requirements relating to the retention of personal and personal health information
- How to respond effectively to privacy breaches

38 related to access to information matters, including:

- Factors to consider in interpreting sections of FIPPA and PHIA and how the sections apply in the processing of access requests
- Preparing fee estimates related to access requests
- Options and best practices for dealing with requests for large volumes of records
- Considerations about the circumstances and requirements for taking extensions of the time limit for responding to access requests

One privacy matter was not subject to FIPPA or PHIA; however, it was a matter that may be subject to federal legislation, the Personal Information Protection and Electronic Documents Act (PIPEDA). That legislation is overseen by the Office of the Privacy Commissioner of Canada (OPC) and we referred the person to the OPC and to its online PIPEDA resources.

Categories of public bodies and trustees who consulted our office on access and privacy matters in 2019



## Practice notes

To support public bodies and trustees with their access and privacy responsibilities, we publish practice notes and other resources on our website.

In 2019, we updated our practice note, *Documentation About Processing Access Requests Under FIPPA*. Adequate documentation in a public body's FIPPA file is critical for efficiently processing access to information requests and effectively supporting decisions made about the request.

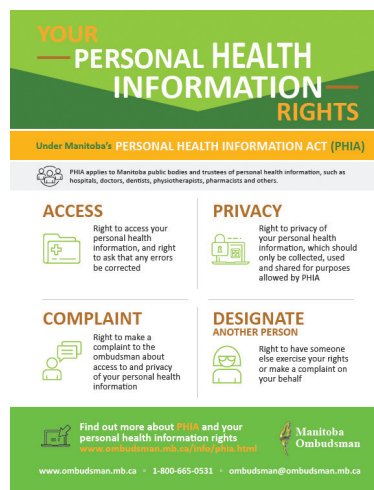
We published two 5-minute privacy checkup self-assessment tools – one PHIA version and one combined FIPPA/PHIA version – to increase employees' awareness of their obligations to safeguard personal and personal health information and promote good privacy habits. Each has a series of questions designed to get employees thinking about how they handle personal and/or personal health information.

## Access and privacy conference

We participated in the Manitoba Connections Access, Privacy, Security and Information Management conference held in Winnipeg on September 23-24, 2019. We gave a presentation on "Key Steps for Responding to Privacy Breaches" to better prepare attendees to effectively respond to a breach and prevent future breaches. We also talked with conference attendees about questions they had about FIPPA and PHIA and provided copies of access and privacy-related resources at our exhibitor table.

## Infographics

In 2019, we published three infographics about access and privacy rights.



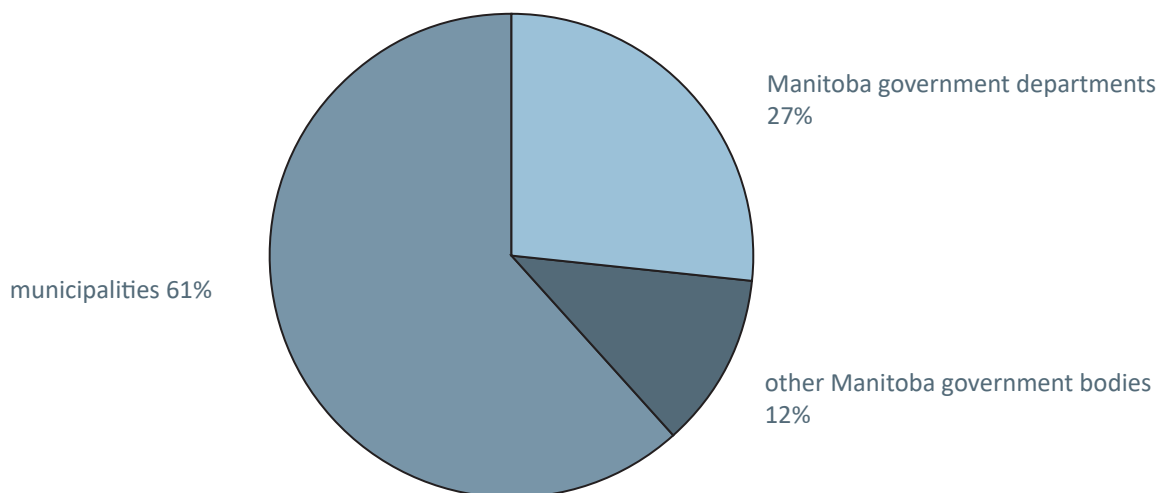
# Ombudsman Act

The core function of the ombudsman is to investigate complaints from citizens about the actions and decisions made by public entities such as government departments and agencies, and municipalities, and their officers and employees. In other words, citizens make complaints to the ombudsman when they believe that an action or a decision by a government body is contrary to law or policy and affects them in some way; for example, when they disagree with a decision or action and feel like they have been treated unfairly. The ombudsman has the discretion to initiate her own investigation, without having received a complaint, if the ombudsman believes there is a matter of administration by which a person or the broader public may be aggrieved.

Under the authority of the Ombudsman Act, our office will determine whether the complaint can be resolved informally. Where early resolution is not possible, our office will open an investigation into the matter. Our investigations assess actions taken or decisions made in the context of provincial legislation or municipal bylaws. We also consider the fairness of the action or decision. If a complaint is supported, we may make recommendations to the government body complained about. We may also identify areas where improvements may be suggested to a government body.

During 2019 we investigated provincial and municipal public bodies involving a range of issues, such as youth corrections and by-law enforcement. On the following pages are highlights of some of the investigations we completed in 2019.

**Distribution of cases opened under the Ombudsman Act in 2019**



For more detailed information about Ombudsman Act complaint investigations, please see the table on page 41.

## Complaint Investigations

### Ombudsman Act case summary

#### City of Winnipeg property tax assessment appeal

#### Not supported

A complaint was filed with our office about a property tax assessment appeal. The complaint was brought forward by an agent who files large numbers of appeals in any given appeal period. The complainant had filed an appeal within the mandated time frame, but for some reason it had not been received by the City of Winnipeg's Board of Revision. The complainant believed the appeal process was not fair, and that his situation was treated differently than others.

Every two years, all properties in the City of Winnipeg are reassessed for tax purposes. Property owners are notified and advised that they have a right of appeal to the Board of Revision. If an appeal is filed, a hearing date is scheduled. Appeals must be filed within a certain time frame.

The board's position was that there was much public advertising of the deadline and that it provided many filing options on a 24-hour, 7-days-per-week basis. The board's view was that written confirmation of all appeals could not be provided due to time and resource constraints.

Our investigation could not conclusively determine what happened to the appeal in question. However, we noted:

- The board had received all other applications from this complainant.
- The complainant was not treated differently from other applicants.
- Confirmations that appeals were received were not generally sent to applicants.
- The board had offered the complainant (and other users who filed multiple appeals) the use of a simple database to track whether appeals had been filed. The complainant had decided not to take advantage of this provision.
- The practices of the board were consistent with their enabling legislation and the practice of other jurisdictions.

Ultimately, we concluded that the complainant was not treated unfairly and that the board's decision was reasonable.

### Ombudsman Act case summary

#### Citizen claim to the City of Winnipeg for home damages as a result of curb repair by a contractor

#### Not supported

An individual made a complaint to our office after the City of Winnipeg denied a claim for home damages resulting from the repair of a nearby curb by a contractor. The contractor believed that the damage was the result of pre-existing problems with the home's foundation and not as a result of the curb repair. The individual believed that the city was acting unfairly and that it should take responsibility for the contractor's work and settle the claim.

The city explained to our office that it places an onus on claimants to provide sufficient evidence to substantiate their claim and as a result, the city advised the individual in this case to obtain a professional opinion about whether the damage was caused by the contractor. The individual did not seek a professional opinion. The city also explained that it refers claims to relevant contractors on a case-by-case basis and that it referred this claim to the contractor, for their response.

Given the information we reviewed and the absence of technical evidence about the cause of the damage to the individual's home, we could not conclude that the city acted unreasonably in this case. We also suggested that the city develop a written policy or procedure about whether to refer claims such as this one to the responsible contractor or deal with a claim itself. A written policy or procedure could help ensure that the city deals with similar claims consistently and could help property owners understand the city's decision making in these kinds of situations.

**Ombudsman Act  
case summary**

**Dog control  
procedures for a  
condominium in  
a municipality**

**Recommendation  
made**

A complaint was filed with our office by a resident of a condominium in a rural municipality. The condominium is a bare land condominium, meaning that units are not attached to each other and there are both private and public greenspaces. The resident was concerned because dogs were running loose on the property.

The RM's dog control bylaw sets out that RM residents should call the animal control officer directly to report concerns. However, the RM declined to take calls from condominium residents about animal control issues, and required that any call for assistance be made by a board member of the condominium. The RM relied on a legal opinion that entering condominium property for the purpose of controlling a dog could have legal consequences, as condominium property was privately owned. The RM passed a special bylaw regarding dog control procedures in this condominium.

The resident had concerns because board members were often not in residence in the condominium all year round. In fact, board members did not even have to be residents in the condominium. Consequently, it was very difficult to contact board members quickly about animal control issues.

Our investigation found that animal control practices related to the condominium and the special bylaw were unfair to condominium owners. They were denied services that were available to all other residents of the community. Further, the RM's own bylaw grants the RM power to enter on private property and buildings when dealing with animal control issues.

Our office recommended that the RM remove the barrier to this select group of residents, and allow residents of the condominium direct access to call the animal control officer. The RM considered our recommendation but declined to implement it.

**Ombudsman Act  
case summary**

**The cost of  
a fine for  
discharging  
effluent  
versus the  
cost of hauling  
wastewater**

**Not supported**

Manitoba Sustainable Development (now Manitoba Conservation and Climate) is responsible for administering the Environment Act and is responsible for issuing licences and monitoring compliance. We received a complaint about the department from a rural municipality, which operates a wastewater treatment lagoon licensed under the act.

In 2017, the rural municipality contacted the department to seek permission to discharge effluent from its wastewater treatment lagoon into a local waterway and the department denied the request. The RM then requested that the department provide the dollar amount of the fine that would be assessed against an RM if excess effluent were to be released from its sewage lagoon, and the department declined to provide the information.

The RM submitted a complaint to our office as it believed the department acted unfairly when it declined to provide the requested information. The RM wanted to determine if it was more cost-effective to pay the fine or to pay the cost of hauling the effluent.

Our office concluded that the administrative actions of the department were carried out in accordance with the law. We noted that the act sets forth requirements for all public entities to adhere to when dealing with matters relating to the environment. The imposition of any associated penalties is the responsibility of the provincial courts, which would assess the penalty based on the case evidence and the impacts arising from an offence.

In this case we noted to the RM that fines are not a fee paid to permit non-compliant activity. Rather, they are to act as a deterrent for behaviour inconsistent with the goals of the act; in this case, to preserve and maintain our natural environment. To engage in a discussion that weighed the costs of hauling effluent versus paying the fine for discharging sewage illegally would have been inappropriate and contrary to the practices of good public administration.

## Follow-up on recommendations

### Ombudsman Act case summary

### City of Winnipeg's Handi-Transit Service (Transit Plus)

### Recommendation follow up

In 2018, our office completed a comprehensive review of the City of Winnipeg's Handi-Transit Service, issuing a report in early 2019 that included 19 recommendations. The investigation was in response to a complaint from the Independent Living Resource Centre (ILRC), an organization that supports people with disabilities, many of whom use the city's Handi-Transit service (now called Transit Plus). Handi-Transit provides transportation for clients who are unable to use the fixed-route transit system because they are legally blind or have a physical disability that significantly impairs their mobility. Our investigation looked at three main areas of operations:

- Eligibility and appeals
- Customer service and quality assurance
- Transparency and communication

Overall, our office determined that in many instances, Handi-Transit provided a reasonably equivalent service to fixed-route transit, but in certain areas fell short.

We believed that many of the shortcomings could be addressed through consideration of the recommendations and suggestions we made as a result of our investigation. Some of our recommendations included that the city:

- broaden its Handi-Transit eligibility criteria
- change the membership of the appeal hearing body (the panel that hears appeals from applicants determined to be ineligible for HandiTransit service)
- better communicate about its complaint process and about the outcome of complaint investigations
- revisit its approach to "no show" charges (penalties applied in order to discourage registrants from booking trips but not taking them)
- produce a comprehensive user guide

The city accepted all 19 recommendations. In 2019, we began the process of following up with the city about the implementation of our recommendations. As of spring 2020:

- six had been completed
- eight were partially completed
- the remaining five were in progress and awaiting council approval for funding

## Ombudsman-Initiated Investigations

### Ombudsman Act case summary

### Use of segregation and pepper spray in Manitoba's youth correctional facilities

### Recommendations made

Complaints were received by the Office of the Children's Advocate (now MACY) from youth and others about the use of pepper spray and segregation in Manitoba's youth correctional facilities – Agassiz Youth Centre (AYC) and Manitoba Youth Centre (MYC). At the time (2016), MACY did not have jurisdiction to investigate the justice system.

We determined that our office would examine legislation, regulations and policies related to pepper spray and segregation and to determine whether they were being appropriately implemented by Corrections staff. MACY looked at the appropriateness of using pepper spray and segregation, i.e. whether using them is justified and in the best interests of youth while they are in custody. We issued separate investigation reports in February 2019.

Our office reviewed pepper spray use in Manitoba youth facilities from September 1, 2015, to August 31, 2016. We made a number of findings and observations, including:

- AYC's and MYC's respective standing orders did not contain elements required by the Corrections policy on pepper spray use.
- In many instances, our office was unable to assess AYC and MYC's compliance with pepper spray use standards because the facilities did not fully meet their reporting and documentation requirements.
- Better documentation and data collection were necessary.
- While divisional policy and the facilities' respective pepper spray standing orders addressed the mental and emotional health of staff who deploy pepper spray, they did not do the same for youth.
- AYC'S and MYC'S pepper spray use procedures would be enhanced by including additional protections in their standing orders.

We made 13 recommendations about pepper spray to Manitoba Justice. The department accepted all the recommendations.

Our office also reviewed segregation use in Manitoba youth facilities from September 1, 2015, to August 31, 2016. We made a number of findings and observations, including:

- Corrections did not maintain an accurate list of youth who have been segregated, when, for what reasons or for how long.
- In many instances, our office was unable to assess whether AYC and MYC fully complied with segregation regulations and standing orders because there was no requirement for the facilities to report or document their compliance.
- AYC's Lakewood unit operated in segregation conditions, but was not considered a segregation placement.
- AYC's and MYC's segregation standing orders did not fully incorporate the Correctional Services Regulation's review requirements. Further, neither AYC nor MYC consistently complied with their respective standing orders relating to segregation reviews.
- AYC and MYC shift operations managers rarely met their documentation responsibilities.
- Better documentation and data collection were necessary.

Our office made 19 recommendations about segregation to Manitoba Justice. The department accepted all of them. Our office continues to work with Manitoba Justice to ensure the implementation of our recommendations.





## Infographics

In 2019, we published one infographic that explains the different aspects of fairness.

## Inquest Reporting

Under the Fatality Inquiries Act, the chief medical examiner may direct that an inquest be held into the death of a person. Inquests are presided over by provincial court judges. Following the inquest, the judge submits a report and may recommend changes in the programs, policies and practices of government that in his or her opinion would reduce the likelihood of a death in similar circumstances.

Since 1985, Manitoba Ombudsman has been responsible by way of an agreement with the chief medical examiner for following up with the provincial government department, agency, board, commission or municipality to which inquest recommendations are directed, to determine what action has been taken. The status of the responses to the recommendations by the public bodies are available on our website.

In 2019, we concluded our follow up on a total of 107 recommendations made in five inquest reports. We also began follow up on 28 recommendations made in four inquest reports released by provincial court judges in 2019.

Since 2008 when we first began sharing our final reports publicly, we have reported on the status of recommendations made in 62 inquests.



# Public Interest Disclosure (Whistleblower Protection) Act

Under the Public Interest Disclosure (Whistleblower Protection) Act (PIDA), our office investigates disclosures of wrongdoing in or relating to the public service. A wrongdoing is a very serious act or omission that is an offence under another law, an act that creates a specific or substantial danger to life, health or safety of persons or the environment, or gross mismanagement, including the mismanagement of public funds or government assets. The act also provides protection to those who seek advice about making a disclosure, make a disclosure, or co-operate in an investigation under PIDA.

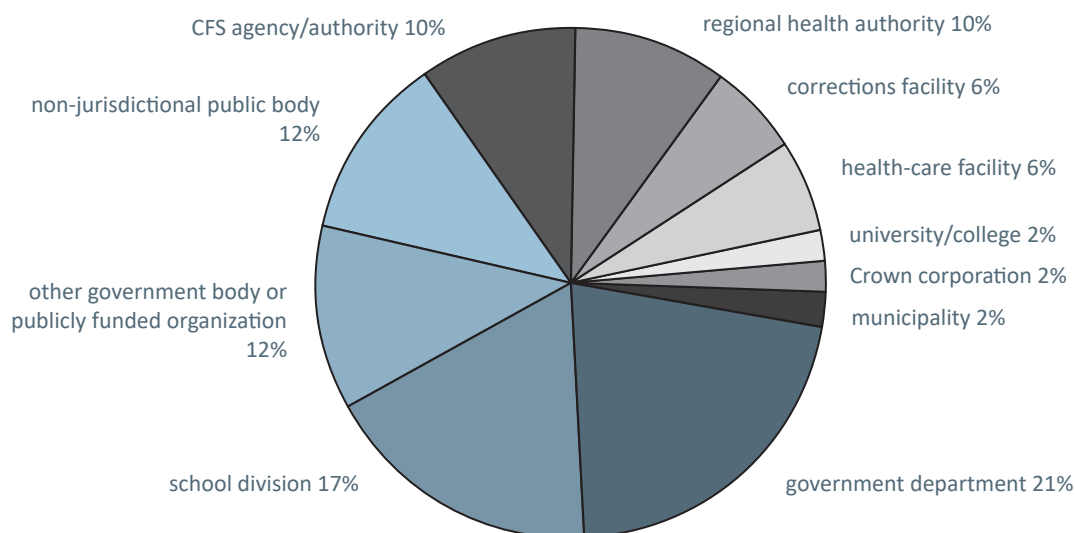
With amendments to PIDA in late 2018, we entered into 2019 with enhanced responsibilities under the act:

- PIDA was expanded to include school divisions/districts and municipalities (by regulation)
- The ombudsman was given authority to:
  - conduct PIDA procedure reviews
  - refer disclosures made to our office to a designated officer
  - receive and investigate reprisal complaints

## Overview of 2019 PIDA Case Files

File type	Received 2019	Closed 2019
Disclosures of wrongdoing	35	16
Reprisal complaints	9	7
Procedure reviews (assistance requested by public body)	6	5
Procedure reviews (ombudsman requested)	1	1
Total	51	29

## Distribution of PIDA cases in 2019 by type of public body



# New Scope Under PIDA

## Procedure reviews

PIDA was proclaimed in April 2007, which means the requirement for public bodies to have PIDA procedures is not new. However, until now we have had limited interaction with public bodies about the content and application of their procedures. We encourage any public body that has not completed a recent review of their PIDA procedures to do so. We will continue to offer our expertise and insight to assist public bodies in establishing and maintaining procedures that will support their internal handling of disclosures of wrongdoing.

PIDA procedures can:

- increase employee awareness about the steps required to make a PIDA disclosure
- provide a message that encourages employees to bring forward their concerns about wrongdoing without fear of reprisal
- improve employee understanding of the process and build trust that their concerns will be taken seriously

Procedures must:

- identify which senior official is the PIDA designated officer so that the matters can be brought to their attention
- require confidentiality to be maintained and protect identities of those involved
- require investigations to be conducted in accordance with the principles of procedural fairness and natural justice
- explain how reprisal protection is established and prohibit reprisal from being taken against an employee
- advise employees that disclosures can be made using the internal PIDA process or to Manitoba Ombudsman
- direct complaints of reprisal to be made to Manitoba Ombudsman
- be communicated to employees annually within every public body to support the handling of disclosures made by their employees.

### Public bodies new to PIDA

School divisions and school districts are now included in the definition of “government body” for the purposes of PIDA. Municipalities may also be designated as a government body in the Public Interest Disclosure (Whistleblower Protection) Regulation. The City of Winnipeg and the City of Brandon are currently the only two municipalities included in the regulation. Expanding the reach of PIDA has provided a new and confidential way to bring forward concerns regarding public bodies previously omitted under the act.

## Procedure reviews in 2019

1	Ombudsman-initiated requests for a copy of a public body’s PIDA procedures in order to review compliance with expectations for communicating and handling disclosures received from employees within the public body.
6	School divisions requested assistance from our office in meeting the requirement for compliant procedures.

## Disclosure referrals from a public body to Manitoba Ombudsman

For the first time, our office received a referral of a disclosure of wrongdoing from a designated officer of a public body. The designated officer in this case recognized that there could be a perception of conflict of interest if the matter was retained and handled internally. The public body's procedures required that disclosures be referred to Manitoba Ombudsman where the nature of the disclosure or the persons involved in the disclosure would make it inappropriate for the designated officer to investigate under PIDA. This is an example of procedural fairness. Disclosures of wrongdoing must receive an unbiased review of the facts without any influence from personal knowledge about a situation or individual.

## Disclosure referrals from Manitoba Ombudsman to a public body

Our office may now consider referring disclosures we receive to the designated officer of the public body to which the disclosure applies. The office did not exercise its new authority under section 20(3) of PIDA in 2019.

## Reprisal complaints

One of the most notable changes is our office's enhanced power to receive and investigate employee or former employee complaints of reprisal. Reprisal means any measure taken against an employee such as a disciplinary measure, a demotion, termination, or any measure to adversely affect employment or working conditions, including making such threats to do so. Under PIDA, employees are protected from reprisal for seeking advice, making a disclosure or cooperating in an investigation into alleged wrongdoing(s).

If reprisal protection is not established, reprisal protection *under PIDA* does not exist. When complaints are reviewed and declined by our office, the reasons will be explained and the employee or former employee may make a further complaint about the alleged reprisal to the Manitoba Labour Board to be handled using procedures under the Labour Relations Act.

The reasons for some of our decisions to decline to investigate reprisal complaints under PIDA include:

- there was no evidence of the complainant's involvement in a matter under PIDA
- the measure (termination or disciplinary action) was taken against the employee prior to any involvement under PIDA or for other documented reasons
- the complainant was not in an employee/employer relationship with the public body

When an ombudsman investigation is launched, sufficient evidence exists to confirm that reprisal protection was established and actions occurred that may be linked to the employee's participation under PIDA. We initiated one investigation into reprisal in 2019.

Our main objective is to facilitate the disclosure and investigation of wrongdoing relating to the public service in order to protect the public interest and to protect those who come forward. This makes our office a safe place for whistleblowers to call and inquire about reprisal actions they may be experiencing, understanding that there may be no one else to talk to without giving up their identity. With this new role under PIDA, we can now assist in ensuring whistleblower protections under PIDA are respected.

We encourage anyone with information about a possible wrongdoing occurring (or about to occur) within a public body, or anyone who believes they are at risk of reprisal action, to contact our office. We handle all inquiries or submissions with confidentiality.

### Reprisal complaints in 2019

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# Disclosures of Wrongdoing

We launched five new investigations into disclosures of wrongdoing in 2019. We concluded one investigation that resulted in findings of wrongdoing and we made six recommendations in the case, all of which were accepted by the public body.

## Disclosures of wrongdoing in 2019

35

<b>PIDA case summary</b>	We investigated a disclosure of alleged wrongdoing within a publicly funded agency. The disclosure alleged that a director within the agency failed in their financial oversight responsibility, which resulted in the theft of money by a staff member.
<b>Disclosure of alleged wrongdoing in a publicly funded agency</b>	At the time our office received the disclosure in this matter, the thefts had already been investigated by the authorities and were substantiated. The staff member’s employment was terminated and the matter was being handled through the criminal justice system. This context made it particularly imperative for us to investigate the circumstances under which the thefts occurred in order to determine whether recommendations should be made in an attempt to prevent similar thefts from occurring in the future.
<b>Wrongdoing found</b>	As a result of our investigation, we found that there were several serious and substantial breaches of policy and legislation by the agency as a whole that contributed to or enabled the theft of money. While we concluded that the actions taken alone by the director in question did not constitute a wrongdoing, we found that the agency as a whole committed a wrongdoing of gross mismanagement under section 3(c) of PIDA.
<b>Recommendations made</b>	<p>We made a number of recommendations for corrective action, which were accepted by the agency and are in the process of implementation, including:</p> <ul style="list-style-type: none"><li>• That the agency develop policies related to the oversight of delegated work and the agency’s relationships and responsibilities with others.</li><li>• That the agency’s whistleblower policy be amended in various ways.</li><li>• That the agency create a tracking mechanism for certain financial documents and randomly audit financial records.</li></ul> <p>In addition to the allegation regarding financial oversight, the disclosure further alleged that several agency employees were deliberately underpaid for annual unused sick time. We did not find evidence to substantiate this allegation and as a result, no wrongdoing was found and no areas for recommendation were identified for this allegation.</p>

For more detailed information about PIDA disclosures and reprisal complaints, please see the table on page 42.

# Office Operations

Manitoba Ombudsman has offices in three locations – Brandon, Thompson and Winnipeg.

The office has two divisions – the Access and Privacy Division for FIPPA and PHIA matters, and the Ombudsman Division for Ombudsman Act and PIDA matters. The divisions are supported by the Community Relations and Corporate Services team.

## Staff

### Brandon Office

Chris Baker, Investigator  
Karen Bertrand, Administrative Support Clerk  
Wanda Bryant, Investigator

### Thompson Office

Ila Miles, Administrative Support Clerk

### Winnipeg Office

Jacqueline Bilodeau, Manager, Access and Privacy Investigations  
David Brickwood, Investigator  
Angie Cleutinx, Administrative Support Clerk  
Marc Cormier, Deputy Ombudsman, Ombudsman Division  
Patti Cox, Investigator  
Judy Dandurand, Manager, Systemic Investigations and Audits  
Lourdes De Andrade, Manager, Administration  
Kristen Fogg, Investigator  
Leanne Fraser, Complaints Analyst  
Meghan Gallant, Investigator  
Laurie Gordon, Investigator  
Rachel Gotthilf, Investigator  
Jannie Gulakow, Complaints Analyst  
Cindy Holloway, Manager, Community Relations and Corporate Services  
Cary Jackson, Investigator  
Lena Joseph, Administrative Support Clerk  
Cydney Keith, Investigator  
David Kuxhaus, Manager, Ombudsman Act Investigations  
Marie Langton, Investigator  
Justine Lapointe, Investigator  
Heather Lessard, Intake Manager  
Mary Loepp, Investigator  
Nancy Love, Deputy Ombudsman, Access and Privacy Division  
Alyson McFetridge, Investigator  
Jack Mercredi, Complaints Analyst (retired in 2019)  
Maggie Nighswander, Investigator  
Robyn Osmond, Investigator  
Maria Palattao, Administrative Support Clerk  
Felicia Palmer, Complaints Analyst  
Shelley Penziwol, Communications, Education and Training Coordinator  
Jill Perron, Ombudsman  
Lori Roberts, Manager, Public Interest Disclosure Investigations  
Jackie Sedor, Investigator  
Dayna Van Caeyzeele, Investigator  
Chris Watson, Investigator  
Linda White, Investigator  
Jesse Zillman, Investigator

### 2019/20 Office Budget (numbers reported in thousands)

Total salaries and employee benefits	3,387.0
Other expenditures	665.0
<b>Total budget</b>	<b>4,052.0</b>

# Detailed Statistics

Note: Provincial departments were restructured in late 2019. These changes are not reflected in the statistical tables on pages 38-42.

## FIPPA Investigations of Individual Complaints (Under Part 5)

	Case Numbers			Case Dispositions							
	Carried over into 2019	New cases in 2019	Total cases in 2019	Pending at 12/31/2019	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	Recommendations
<b>Provincial government</b>											
Agriculture	-	2	2	1	-	-	-	-	1	-	-
Civil Service Commission	-	22	22	2	-	-	-	-	20	-	-
Crown Services	1	2	3	1	-	-	-	1	1	-	-
Education & Training	2	4	6	1	-	1	3	-	-	1	-
Executive Council	-	16	16	2	1	-	1	1	9	2	-
Families	3	25	28	18	-	1	4	2	-	3	-
Finance	8	65	73	9	-	1	4	-	59	-	-
Growth, Enterprise & Trade	1	4	5	1	-	1	-	1	1	1	-
Health, Seniors & Active Living	2	7	9	1	-	2	3	-	1	2	-
Indigenous & Northern Relations	-	3	3	2	-	-	-	-	1	-	-
Infrastructure	2	2	4	0	-	1	1	1	-	1	-
Intergovernmental Affairs & International Relations	4	3	7	1	-	-	1	-	3	1	1
Justice & Attorney General	4	18	22	8	3	2	6	1	1	1	-
Municipal Relations	-	4	4	1	-	1	-	-	2	-	-
Sustainable Development	11	7	18	3	-	-	2	3	8	2	-
<b>Government agency</b>											
CFS Agency/Authority	3	3	6	-	-	3	-	-	3	-	-
Efficiency Manitoba	-	2	2	-	-	2	-	-	-	-	-
Legal Aid Manitoba	-	1	1	-	-	-	1	-	-	-	-
Manitoba Agricultural Services Corporation	1	-	1	-	-	-	1	-	-	-	-
Manitoba Housing & Renewal Corporation	1	4	5	2	-	-	-	1	-	2	-
Manitoba Hydro	3	8	11	7	-	-	3	-	-	1	-
Manitoba Institute of Trades & Technology	2	-	2	-	-	-	-	-	-	2	-
Manitoba Liquor & Lotteries	-	4	4	1	-	-	1	-	-	2	-
Manitoba Public Insurance	-	10	10	2	-	-	7	1	-	-	-
Tax Appeals Commission	-	1	1	1	-	-	-	-	-	-	-
Workers Compensation Board	-	4	4	2	1	-	1	-	-	-	-
<b>Local government body</b>											
City of Brandon	-	3	3	1	-	1	1	-	-	-	-

## FIPPA Investigations of Individual Complaints (Under Part 5)

	Case Numbers			Case Dispositions							
	Carried over into 2019	New cases in 2019	Total cases in 2019	Pending at 12/31/2019	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	Recommendations
<b>Local government body, continued</b>											
City of Winnipeg	10	55	65	24	8	3	13	5	1	11	-
Dallas/Red Rose Community Council	1	-	1	-	-	-	-	-	1	-	-
Red River Planning District	1	1	2	1	-	-	1	-	-	-	-
RM of Gimli	-	11	11	3	-	1	-	-	6	1	-
RM of Grey	2	-	2	-	-	-	-	1	-	-	-
RM of Lac du Bonnet	6	8	14	5	-	1	2	4	2	-	-
RM of St. Andrews	-	3	3	1	-	-	1	-	-	1	-
RM of St. Laurent	-	2	2	2	-	-	-	-	-	-	-
RM of Springfield	-	3	3	3	-	-	-	-	-	-	-
RM of Swan Valley West	-	3	3	-	-	-	-	-	3	-	-
RM of West St. Paul	12	5	17	4	-	-	1	6	2	4	-
RM of Whitemouth	-	1	1	-	-	-	-	-	-	1	-
Town of Churchill	1	-	1	-	-	-	-	1	-	-	-
Town of Lac du Bonnet	1	2	3	-	-	-	-	-	2	1	-
Town of Teulon	-	4	4	2	-	-	-	1	1	-	-
<b>Educational body</b>											
Brandon School Division	2	2	4	-	-	1	3	-	-	-	-
Brandon University	-	1	1	-	-	-	1	-	-	-	-
Hanover School Division	1	-	1	-	-	-	1	-	-	-	-
Lakeshore School Division	1	-	1	-	-	-	-	1	-	-	-
Red River College	1	-	1	-	-	-	-	-	-	1	-
River East Transcona School Division	-	2	2	-	-	-	2	-	-	-	-
Sunrise School Division	-	8	8	1	-	-	5	-	-	2	-
University of Manitoba	1	4	5	2	1	-	1	1	-	-	-
University of Winnipeg	3	-	3	-	-	-	3	-	-	-	-
Winnipeg School Division	-	2	2	1	-	-	-	-	-	1	-
<b>Health-care body</b>											
Concordia Hospital	-	1	1	1	-	-	-	-	-	-	-
Manitoba Adolescent Treatment Centre	-	1	1	-	-	-	-	1	-	-	-
Northern Health Authority	1	-	1	-	-	-	-	1	-	-	-
St. Boniface Hospital	-	3	3	3	-	-	-	-	-	-	-
Shared Health Inc.	-	1	1	1	-	-	-	-	-	-	-
Southern Health-Santé Sud	-	1	1	1	-	-	-	-	-	-	-
Winnipeg Regional Health Authority	5	42	47	17	1	4	19	2	3	1	-
<b>TOTAL</b>											
	97	390	487	139	15	26	93	36	131	46	1

## PHIA Investigations of Individual Complaints (Under Part 5)

	Case Numbers			Case Dispositions							
	Carried over into 2019	New cases in 2019	Total cases in 2019	Pending at 12/31/2019	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	Recommendations
<b>Provincial government</b>											
Justice and Attorney General	-	1	1	1	-	-	-	-	-	-	-
<b>Government agency</b>											
Manitoba Housing & Renewal Corporation	-	1	1	-	-	-	-	-	-	1	-
Manitoba Hydro	1	-	1	-	-	-	1	-	-	-	-
Manitoba Public Insurance	-	4	4	1	1	-	-	-	2	-	-
Workers Compensation Board	-	3	3	-	-	1	2	-	-	-	-
<b>Local government body</b>											
Town of Teulon	-	1	1	-	-	-	-	-	1	-	-
<b>Educational body</b>											
Assiniboine Community College	-	2	2	2	-	-	-	-	-	-	-
Red River College	-	1	1	-	-	-	1	-	-	-	-
<b>Health-care body</b>											
Designated health-care facility	-	1	1	-	-	-	1	-	-	-	-
Grace General Hospital	-	2	2	2	-	-	-	-	-	-	-
Interlake-Eastern Regional Health Authority	2	-	2	-	-	-	-	2	-	-	-
Laboratory	1	-	1	-	-	-	1	-	-	-	-
Medical clinic	-	5	5	1	-	-	1	-	2	1	-
Northern Regional Health Authority	1	-	1	1	-	-	-	-	-	-	-
Personal care home	-	1	1	-	-	-	1	-	-	-	-
Seven Oaks General Hospital	-	1	1	-	-	-	1	-	-	-	-
Shared Health Inc.	-	2	2	2	-	-	-	-	-	-	-
Southern Health-Santé Sud	-	1	1	-	-	-	-	-	1	-	-
Winnipeg Regional Health Authority	2	5	7	5	-	-	2	-	-	-	-
<b>Health professional</b>											
Dentist	-	1	1	-	-	1	-	-	-	-	-
Optometrist	-	1	1	-	-	-	-	-	-	1	-
Physician	3	6	9	3	1	-	2	-	3	-	-
<b>TOTAL</b>											
	10	39	49	18	2	2	13	2	9	3	-
<p><b>Complaint dispositions used in the tables on pages 38-40:</b></p> <p><b>Supported:</b> Complaint fully supported because the decision was not compliant with the legislation.</p> <p><b>Partly supported:</b> Complaint partly supported because the decision was partly compliant with the legislation.</p> <p><b>Not supported:</b> Complaint not supported at all.</p> <p><b>Recommendation made:</b> All or part of complaint supported and recommendation made after informal procedures prove unsuccessful.</p> <p><b>Resolved:</b> Complaint is resolved informally before a finding is reached.</p> <p><b>Discontinued:</b> Investigation of complaint stopped by ombudsman or client.</p> <p><b>Declined:</b> Decision by ombudsman not to investigate complaint, usually based on a determination that the circumstances do not require investigation.</p> <p><b>Pending:</b> Complaint still under investigation as of December 31, 2019.</p>											



## Ombudsman Act Investigations

	Case Numbers			Case Dispositions							Both administrative suggestions and recommendations made*		
	Carried over into 2019	New cases in 2019	Total cases in 2019	Pending at 12/31/2019	Case resolved early	Declined or discontinued	Not supported	Partly resolved or resolved	Partly supported or supported	Other	Administrative suggestions made*	Recommendations made*	Both administrative suggestions and recommendations made*
<b>Manitoba government departments</b>													
Agriculture	1	1	2	2	-	-	-	-	-	-	-	-	-
Civil Service Commission	-	1	1	1	-	-	-	-	-	-	-	-	-
Crown Services	1	-	1	-	-	-	-	-	1	-	-	-	-
Families	1	5	6	5	-	-	-	-	1	-	-	-	-
Finance	-	3	3	3	-	-	-	-	-	-	-	-	-
Growth, Enterprise & Trade	-	2	2	2	-	-	-	-	-	-	-	-	-
Health, Seniors & Active Living	1	1	2	2	-	-	-	-	-	-	-	-	-
Infrastructure	1	-	1	1	-	-	-	-	-	-	-	-	-
Justice & Attorney General	11	13	24	18	-	2	3	-	1	-	1	1	-
Municipal Relations	-	1	1	-	-	1	-	-	-	-	-	-	-
Sustainable Development	7	1	8	5	-	1	1	-	1	-	-	-	-
<b>Other Manitoba government bodies</b>													
Interlake-Eastern Regional Health Authority	-	1	1	1	-	-	-	-	-	-	-	-	-
Liquor, Gaming & Cannabis Authority of Manitoba	1	1	2	2	-	-	-	-	-	-	-	-	-
Manitoba Hydro	1	2	3	2	-	1	-	-	-	-	-	-	-
Manitoba Public Insurance	3	2	5	3	-	1	-	-	1	-	1	-	-
Public Utilities Board	-	1	1	1	-	-	-	-	-	-	-	-	-
Winnipeg Regional Health Authority	-	1	1	1	-	-	-	-	-	-	-	-	-
Workers Compensation Board	1	2	3	3	-	-	-	-	-	-	-	-	-
WCB Appeals Commission	-	2	2	1	-	1	-	-	-	-	-	-	-
<b>Municipalities</b>													
City of Winnipeg	10	16	26	17	1	2	3	-	3	-	-	1	-
Other cities, RMs, towns, villages	46	48	94	66	4	3	9	2	10	-	1	8	-
Planning districts	2	-	2	1	-	-	-	-	1	-	-	-	-
Ombudsman's Own Initiative (OOI) -- municipal (general)	1	-	1	-	-	1	-	-	-	-	-	-	-
<b>TOTAL</b>													
	<b>88</b>	<b>104</b>	<b>192</b>	<b>137</b>	<b>5</b>	<b>13</b>	<b>16</b>	<b>2</b>	<b>19</b>	<b>-</b>	<b>3</b>	<b>10</b>	<b>-</b>
<p><b>Pending:</b> Complaint still under investigation as of December 31, 2019.</p> <p><b>Case resolved early:</b> Case resolved before proceeding through a full formal investigation process.</p> <p><b>Declined or discontinued:</b> Investigation ceased as complaint was withdrawn or due to issues of jurisdiction or the existence of other avenues of appeal or resolution.</p> <p><b>Not Supported:</b> Complaint not supported at all.</p> <p><b>Partly Resolved or Resolved:</b> Complaint is partly or fully resolved through investigation.</p> <p><b>Partly Supported or Supported:</b> Investigation found administrative issues that needed to be addressed.</p> <p><b>Other:</b> Monitoring and follow-up in previous cases where recommendations had been made, has been concluded.</p>													

## Public Interest Disclosure (Whistleblower Protection) Act Cases

	Case Numbers			Case Status									Recommendations	
	Assistance provided	PIDA case files carried over into 2019	New PIDA case files opened in 2019	Total PIDA case files pending at 12/31/2019	Declined investigation	Discontinued investigation	Referred disclosure	Disclosure resolved	Investigation completed – wrongdoing found	Investigation completed – wrongdoing not found	Procedure review – ombudsman requested	Procedure review – assistance provided to public body	Recommendations made	Follow-up on recommendations completed
Government department		1	11	8	4	-	-	-	-	-	-	-	-	-
Health-care facility		-	3	1	2	-	-	-	-	-	-	-	-	-
Personal care home		-	-	-	-	-	-	-	-	-	-	-	-	-
Regional health authority		-	5	2	3	-	-	-	-	-	-	-	-	-
Child and Family Services agency/authority		-	5	5	-	-	-	-	-	-	-	-	-	-
Corrections facility		-	3	-	3	-	-	-	-	-	-	-	-	-
University/college		-	1	-	1	-	-	-	-	-	-	-	-	-
School divisions		-	9	3	-	-	-	-	-	-	-	6	-	-
Crown corporation		4	1	2	2	-	-	-	-	-	1	-	-	-
Other government body or publicly funded organization		1	6	4	2	-	-	-	1	-	-	-	6	-
Municipalities under the regulation		-	1	1	-	-	-	-	-	-	-	-	-	-
Non-jurisdictional public body		-	6	-	6	-	-	-	-	-	-	-	-	-
TOTAL	31	6	51	26	23	-	-	-	1	-	1	6	6	-

**Assistance provided:** Assistance or information supplied to public body or to individual upon being contacted regarding PIDA matters. Of the 31 inquiries made in 2019, 5 resulted in written disclosures being made to our office.

**PIDA case files carried over into 2019:** Case files that were unresolved at the end of 2018.

**New PIDA case files opened in 2019:** A written disclosure or complaint of reprisal is received. Case files also include public body PIDA procedure reviews underway by request from the ombudsman, and by request for assistance from the public body.

**Total PIDA case files pending at December 31, 2019:** PIDA case files unresolved in 2019 and carried over into 2020. These may be ongoing investigations, or files with disclosures or complaints of reprisal still pending assessment to determine if an investigation is required.

**Declined investigation:** Disclosure not investigated by the ombudsman. Disclosures are declined for non-jurisdiction or when the allegations did not pertain to wrongdoings as defined by PIDA. In many of these cases, the matter may be referred to the applicable public body for internal review and action, or the whistleblower is advised of a more appropriate procedure to have the matter reviewed or addressed.

**Discontinued investigation:** Investigation of disclosure ceased under PIDA. These may represent matters investigated by Manitoba Ombudsman under another act.

**Referred Disclosure:** Disclosure referred to the designated officer of the public body subject to the allegations for internal handling under PIDA, when deemed appropriate by the ombudsman. This option came into effect on December 1, 2018. A disclosure may be also be referred to the auditor general if the ombudsman believes the matter would be dealt with more appropriately under the Auditor General Act.

**Disclosure resolved:** Disclosure was resolved informally without completing an investigation. Section 13 authorizes the ombudsman to facilitate resolution within a public body.

**Investigation completed – Wrongdoing found:** Upon completion of investigation, one or more wrongdoings, as defined by PIDA, were found.

**Investigation completed – Wrongdoing not found:** Upon completion of investigation, no wrongdoing, as defined by PIDA, was found.

**Recommendations made:** As a result of an investigation, recommendations were made to one or more public bodies, whether wrongdoing was found or not.

**Follow-up on recommendations completed:** Monitoring the completion of a public body's commitment to our recommendations has concluded. Completion of the monitoring can be for recommendations made in the previous year.