

2021-22 ANNUAL REPORT



Manitoba Ombudsman

Manitoba Ombudsman

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January, 2023

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 Personal Health Information Act and subsection 29.2(1) of the Public Interest Disclosure (Whistleblower Protection) Act, I am pleased to submit the annual report of Manitoba Ombudsman for the 15 months of January 1, 2021, to March 31, 2022.

Yours truly,



Jill Perron
Manitoba Ombudsman

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If you have comments or questions about the
2021-22 Annual Report, please send them to
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Available in alternate formats upon request

OMBUDSMAN'S MESSAGE



Jill Perron

I am pleased to present the Manitoba Ombudsman 2021-22 Annual Report which highlights the activities, progress, and achievements of our office for the 15 month period of January 1, 2021 to March 31, 2022.

Throughout this reporting period, the global Covid-19 pandemic persisted. Public bodies and trustees continued to contend with the evolving and unpredictable nature of the Covid-19 virus and its impact on public health. The speed of decision making and adaptations in a pandemic response can create angst and confusion for citizens, who must also adjust to disruption in their own daily lives. Our office frequently fielded calls from Manitobans seeking assistance to navigate government pandemic response programs, to raise privacy and fairness concerns about altered services, or the use of online platforms and the impact of virtual interactions as non-emergent public services shifted to remote operations.

As public health efforts in the fight against Covid-19 expanded, Manitoba Ombudsman joined federal, provincial, and territorial ombuds and information privacy commissioners to issue joint statements and guidance for the development and implementation of vaccination passports and associated programs to promote compliance with privacy laws and best practices in privacy protection, fairness and transparency. We shared this public guidance with governments, public sector agencies, and private business and responded to their requests for informal consultation related to new programs or the alteration of existing services. We offered our expertise and advice to promote rights, fairness, and privacy protective practices for the collection and use of personal health information in education, employment, and community services environments as well as when implementing new systems or working remotely.

In the spring of 2021, we commented publicly on proposed amendments to the Freedom and Information and Protection of Privacy Act (FIPPA), noting that new increases to response timelines and expanded grounds for the disregard of access requests by public bodies are regressive when compared to other Canadian jurisdictions. As now law, this is an area that my office will actively monitor to assess the broader impact on the access rights of citizens.

Other amendments to FIPPA and the Personal Health Information Act (PHIA) are progressive and strengthen privacy protections for citizens. These include mandatory privacy breach reporting and a legal requirement for public bodies and trustees to adopt physical, administrative, and technical safeguards for personal and personal health information. This report highlights the amendments to both acts and our activities, including new policy and procedures to manage the influx of reporting and new, updated guidance for administrators and the public. I am pleased to report we were ready to take on our new responsibilities when the act came into force on January 1, 2022.

During this 15 month reporting period, we received 4,386 inquiries and complaints from citizens across our four mandates. The annualized volume of inquiries, complaints, and disclosures received increased 11 per cent over the previous year and suggests a return to our historical service volumes. Many of these calls involved assisting individuals to navigate complex public systems or access needed benefits. Other matters stemmed from Covid-19 responses, such as: contact tracing; pandemic related benefits; limitations for visitors and residents of correctional facilities, hospitals, and care homes; and proof of vaccination requirements. In these instances, we worked to provide information and resolve concerns with governments and service providers informally when possible.

We opened 332 investigations under the Ombudsman Act, FIPPA, PHIA, and the Public Interest Disclosure (Whistleblower Protection) Act (PIDA). Several investigations under the Ombudsman Act are summarized in this report and represent a diverse range of issues related to fairness within administrative policy and processes. Our findings highlight the need for transparency in decision making, the obligation of government to uphold and follow their own rules, and the design and delivery of programs or services with fairness in mind.

Investigations under FIPPA and PHIA shed light on the need to consider access to information obligations in the continuity plans of public bodies and trustees. We found that some public bodies were unable to respond to access requests when FIPPA personnel were reassigned to pandemic response areas or circumstances of remote work that made searching, retrieving, and reviewing responsive records challenging. We upheld citizens access rights by issuing recommendations on these matters as necessary.

Protection of personal and personal health information was the focus of a number of privacy investigation reports released this year. An investigation report into an unprecedented privacy breach in our province that affected 8,900 children receiving services from the Children's DisAbility Services program of Manitoba Families resulted in nine important recommendations designed to ensure compliance with PHIA including the need for proper privacy safeguards.

We also released our summary report on the privacy implications of Manitoba Liquor and Lotteries Corporation (MLL) controlled entrance initiative after receiving many questions from the public about the collection and handling of their personal information. MLL's practice of completing a privacy impact assessment assures citizens that their personal and health information is managed appropriately and safeguarded.

In October, an employee of a public trustee was charged with an offence under PHIA for deliberately accessing and disclosing another person's health information without any authority. Taking this action serves as an important reminder that the willful access and use of another person's personal health information, or an attempt to do so, has serious consequences.

These investigations demonstrate privacy vulnerabilities and the need for good stewardship of personal information in our public sector. They highlight the importance of strong privacy management programs that anticipate and mitigate risks to personal privacy in the planning, implementation and review phases of public service delivery. Privacy management programs build and entrench a culture of privacy and boost public confidence and trust in an organization.

For the majority of this reporting period we sustained remote operations, prioritizing the health and safety of our staff and the public. I want to recognize the hard working Manitoba Ombudsman staff who persevered, demonstrating an unwavering commitment to serve Manitobans during uncertain times. I also wish to acknowledge the retirement of Nancy Love, Deputy Ombudsman. Her leadership in access and privacy matters and passion for our mandate positively shaped the activities of our office since the inception of FIPPA. The contributions of all our people are critical to fulfil our independent oversight responsibilities and uphold and promote access to information and privacy protection rights, fairness, transparency and good governance in Manitoba's public services. I thank them for their knowledge, expertise, and dedication.

Our annual report is an opportunity to share the work and decisions we undertake and I'm pleased to share it with you.



ABOUT THIS REPORT

Change in reporting schedule

The ombudsman is required to report annually to the Manitoba Legislative Assembly through the Speaker of the House on the exercise and performance of their functions and duties. Previous tabled and published annual reports from Manitoba Ombudsman followed the calendar year (January 1 - December 31).

Starting with this report, Manitoba Ombudsman will shift to an annual fiscal year reporting schedule that is aligned with our budget cycle (April 1 - March 31). To accommodate this change, the first reporting period under the new schedule covers a 15 month time span instead of 12 months (January 1, 2021-March 31, 2022). Special exception to an annual report requirement was arranged by Manitoba Ombudsman with the Legislative Assembly Management Commission.

Starting in 2022-23 and going forward, all annual reports will include activity, outcome, and budgetary information from April 1 to March 31 (12 months).

Reporting on a fiscal schedule aligns with the practices of other independent officers of the Legislative Assembly and mirrors the annual reporting practices of the Province of Manitoba. It also simplifies the internal management and accountability functions of our office which, in turn, facilitates greater transparency into our actions and the use of public resources.

Acronyms used in this report

CCPO - Canadian Council of Parliamentary Ombudsman
CDS - Children's disAbility Services
CFS - Child and Family Services
CSM - Communication Services Manitoba
CT - Computed tomography
FIPPA - Freedom of Information and Protection of Privacy Act
FLS - French Language Service
GST - Goods and Services Tax
IPC - Information Privacy Commissioners
MACY - Manitoba Advocate for Children and Youth
MLL - Manitoba Liquor and Lotteries Corporation
MO - Manitoba Ombudsman
MPI - Manitoba Public Insurance
PHIA - Personal Health Information Act
PIDA - Public Interest Disclosure Act
PST - Provincial Sales Tax
RCMP - Royal Canadian Mounted Police
RM - Rural Municipality
RTB - Residential Tenancies Branch
RTC - Residential Tenancies Commission
VLT - Video Lottery Terminal
VSE - Voluntary Self-Exclusion



ABOUT THE OFFICE

THE OMBUDSMAN'S AUTHORITY

The ombudsman is an officer of the Manitoba Legislative Assembly and is independent of the government and political parties.

At Manitoba Ombudsman, our legislated purpose is to receive, resolve, investigate, and report on complaints from citizens about government administration, wrongdoing, access to information, and privacy protection within public services. We do this to promote fairness, transparency and accountability in public programs and services.

Our mandate is set out under four separate laws in Manitoba:

- The Ombudsman Act
- The Personal Health Information Act (PHIA)
- The Freedom of Information and Protection of Privacy Act (FIPPA)
- The Public Interest Disclosure (Whistleblower Protection) Act (PIDA)

These acts enable the ombudsman to investigate complaints, conduct audits, make recommendations, educate and outreach to the public, comment on the privacy and fairness implications of new initiatives, and report publicly. The ombudsman can bring attention to significant systemic issues that may not have otherwise come forward.

Manitoba Ombudsman also monitors and reports publicly on the implementation of inquest report recommendations made under the Fatality Inquiries Act to determine if they were implemented, discontinued, or refused and why.

What we do

Manitoba Ombudsman offers confidential, responsive, and respectful services designed to informally address and resolve citizen concerns stemming from their interactions with public services.

When we investigate complaints about the actions, decisions or omissions in the delivery of public programs and services we may issue recommendations to recover a right, provide a remedy, or recommend a solution and include any steps we deem appropriate. Our recommendations are intended improve public administration and services for all.

We also educate Manitobans and public administrators on fairness, access to information and privacy matters, and comment on these topics as they relate to new public sector initiatives.

We lend our expertise to other public servants and healthcare trustees who consult with us and provide resources and guidance to support fair program design and compliance with complex privacy and access laws.

Our purpose in parliamentary democracy

In Manitoba and across Canada, ombuds are an important pillar of our parliamentary system who help support a functioning democracy.

First, for any Manitoban, the office provides an avenue to have matters of administration or wrongdoing considered by an independent third party. While we do not serve as an advocate for the citizen, we can consider the validity of their complaint and take it to the public bodies for remedy when it is supported by facts and/or evidence. In such cases, each complaint or disclosure has the potential to improve programs and services or management of public institutions.

As the information access and privacy authority for Manitoba, the ombudsman makes sure those who govern uphold the citizen's rights to access information and are accountable under the law. Our investigations and compliance audits on privacy matters ensure public bodies and health trustees apply robust and reliable safeguards to protect citizens from unauthorized or inappropriate handling of their personal information.

Second, and equally important, is the ombudsman's discretionary power to initiate their own investigation into any matter in the public interest.

THE OMBUDSMAN'S JURISDICTION

The jurisdiction of the ombudsman is broad and somewhat different under each mandate. Oversight authority includes:

- Province of Manitoba Office of Executive Council
- Provincial government ministries
- Agencies, boards, commissions
- Authorities
- Crown corporations
- Cities, towns, and villages
- Rural and northern municipalities and their council members
- Trustees responsible for the delivery of health care services in Manitoba
- Other prescribed institutions under PIDA

Third, by upholding fairness, transparency and accountability in public bodies through the ombudsman's oversight authority, our office helps Manitobans maintain confidence in the functioning of their public institutions and the people who administer public programs and services. All citizens in a democracy are entitled to government that respects their rights and is fair.

How we work

Manitoba Ombudsman delegates authority to a staff team to undertake impartial and objective assessments of complaints to address or resolve citizen's concerns at the earliest stage or fully investigate a matter. We work within the community and travel throughout the province in the course of investigations and audits to engage and outreach.

In practice, we employ an informal, non-adversarial and neutral approach, and take care to uphold professional standards of confidentiality, impartiality and independence. Investigations of complaints and disclosures to our office are completed in private. There is no fee for service.

Each year, thousands of Manitobans approach our office with their varied inquiries and complaints. Each matter that is brought to our attention is important to the person who brings it and we work to assist directly and swiftly when we can. Some people who approach us need help to navigate public and private systems and we may help them find the right outlet to be heard on their matter or resources that exist outside of our office to solve their issue.

Investigations are led by trained investigators who are skilled in the collection and examination of evidence and qualified to make impartial, independent, and fair decisions about a complaint or disclosure of wrongdoing. An investigator decides if a complaint or disclosure is supported by examining collected evidence, legislation, policy, or practices of the public body or trustee and applies their expertise to develop recommendations if warranted.

Our team is comprised of people with a variety of professional backgrounds, including public administration, law, social work, journalism, public health, education, crisis management, and executive leadership. We value diversity in our professional and lived experiences as it helps us to meet the different needs of Manitobans that fall under our four distinct mandates.

BREAKING DOWN THE COMPLAINT PROCESS

When approaching us for help, the process for the citizen generally involves the following steps:

STEP 1: CASE FILE INTAKE

- We receive and assess the matter to determine if the ombudsman has jurisdiction and the next appropriate steps. We may gather preliminary information at this stage.
- When we do have authority in the matter, our team undertakes an assessment to determine the administrative and/or access or privacy issue, or if a disclosure of wrongdoing meets the threshold for our involvement.

STEP 2: CASE FILE IS RESOLVED OR IT PROCEEDS

One of two avenues is typically experienced:

- If we have jurisdiction, we may make informal inquiries and requests to help find a solution to the citizen's concern and resolve the matter without a full investigation.
- If we have jurisdiction and decide to open an investigation on the matter, an investigator is assigned to the case file. The public body or trustee is notified.

STEP 3: CASE FILE INVESTIGATION

Investigators plan and undertake investigation activities, information is gathered, and findings are documented.

When an investigation is complete:

- To ensure procedural fairness, the findings are provided to the public body or trustee under investigation. They are permitted to respond to the findings and recommendations.
- When the report is final, the appropriate people are notified of the outcome and a copy of the report is shared whenever possible.
- The case file is closed when all parties are notified that our work is complete.

STEP 4: INVESTIGATION REPORTS AND MONITORING

- If the ombudsman believes the public would benefit from the report, it is published and posted to our website. A news release and other notifications through social media may also be issued. Sometimes the results of our work are included in our Annual Report.
- If a report includes recommendations for a public body or trustee, we monitor their implementation and follow up to ensure the outcomes reflect our intentions.

For each citizen, the length of the process depends on the complexity of their matter, the responsiveness of stakeholders in the investigation, and the capacity of Manitoba Ombudsman at any point in time. We respect people's time and what is at stake for them and continuously strive to improve our service delivery.

2021-22 OVERVIEW: INQUIRIES, COMPLAINTS AND INVESTIGATIONS

4,386 INQUIRIES AND COMPLAINTS

4,019 Intake staff handled 4,019 inquiries and complaints related to FIPPA, PHIA, the Ombudsman Act, and PIDA

367 The administration team also handled 367 general inquiries

332 INVESTIGATIONS OPENED

251 FIPPA

47 PHIA

32 Ombudsman Act

2 PIDA

8 INQUEST RECOMMENDATIONS MONITORED

8 3 inquest reports with 8 recommendations were received from the Provincial Court of Manitoba

10 INVESTIGATION AND AUDIT REPORTS POSTED ON WEBSITE

3 FIPPA

1 PHIA

6 Ombudsman Act



OUR RESPONSE TO COVID-19

SERVICE DELIVERY DURING THE COVID-19 PANDEMIC

Our office continued to innovate in our service delivery to the public as the Covid-19 pandemic persisted throughout the reporting period. Like other organizations in Manitoba, the preservation of health and safety remained a top priority for our office as we shifted our operations to work remotely. With the help of our Information Technology team, we expanded our use of virtual video conferences and updated our phone systems to support personal and human connection during remote operations.

At times, public health orders limited direct contact among people which required us to restrict or suspend in-person office attendance, meetings, and interviews. Our office reflected the experience in the world around us, as continual uncertainty and the need for a prolonged state of emergency took its toll on our people and the citizens who come to us for help. Despite ongoing challenges, resilience and commitment among the members of our team ensured that Manitobans received uninterrupted service and the Manitoba Ombudsman mandates were fulfilled. We appreciate the patience and cooperation of the public who interacted with our office during this time and experienced a service adjustment.

We are pleased to report that by the end of the reporting period, all in-person activities resumed to meet the demands of the public.

NATIONAL PERSPECTIVES ON ACCESS, PRIVACY & FAIRNESS IN COVID-19 PROGRAMS

In 2021-22, we joined our colleagues from across Canada to achieve several objectives in the face of the pandemic, most importantly to use our offices to ensure citizens' rights were upheld and access to public services continued during governments emergency response to Covid-19 pandemic.

Guidance on the preservation of fairness and transparency in Covid-19 vaccination programs

In May 2021 the Canadian Council of Parliamentary Ombudsman (CCPO) issued [Fairness Principles for Public Service Providers Regarding the Use of Covid-19 Vaccine Certification](#), a guidance document for provincial and territorial organizations under the jurisdiction of ombuds across the country. It was intended for public bodies providing services such as public education, housing, and health services and placed fairness at the forefront of any vaccination certification system applied to public service delivery.

The guidance document called on governments to consider key fairness principles when contemplating COVID-19 vaccination certification approaches including:

- Clear direction for the use of vaccination certification via legislation or publicly available policy.
- Vaccine certification programs must be evidence-informed and decisions must be subject to review and appeals.
- Accommodations must be made for those without the vaccine, including alternative service delivery options.
- Decisions about restricting access to a service based on a person's vaccination status must be done in a transparent, procedurally fair manner and be clearly communicated to the affected person in an accessible way.

Joint Statement on the preservation and protection of privacy rights in Covid-19 pandemic vaccine passports

Information and privacy commissioners issued a [Joint Statement on Vaccine Passports](#) in May 2021 which called on governments to meet the highest standard of privacy protection when considering Covid-19 vaccine passports.

In light of the significant privacy risks involved, vaccine passports must be established for each specific context in which they will be used and demonstrate the following three principles.

- **Necessity:** vaccine passports must be necessary to achieve each intended public health purpose. Their necessity must be evidence-based and there must be no other less privacy-intrusive measures available and equally effective in achieving the specified purposes.
- **Effectiveness:** vaccine passports must be likely to be effective at achieving each of their defined purposes at the outset and must continue to be effective throughout their life-cycle.
- **Proportionality:** the privacy risks associated with vaccine passports must be proportionate to each of the public health purposes they are intended to address. Data minimization should be applied so that the least amount of personal health information is collected, used, or disclosed.

Joint resolution on general access to information and privacy protection during and after the Covid-19 pandemic

Another joint resolution with federal, provincial, and territorial information and privacy commissioners called on our respective governments to respect Canadians' quasi-constitutional rights to privacy and access to information. All regulators took note of the serious impact the COVID-19 pandemic has had on the right of access to information and privacy rights in Canada and called on governments to use lessons learned from the pandemic to improve these rights.

The [joint resolution](#) adopted 11 access to information and privacy principles and called on Canada's governments to show leadership by implementing them and prioritizing the modernization of legislative and governance regimes around freedom of information and protection of privacy.

COMMENTS & GUIDANCE FOR PROVINCIAL / MUNICIPAL GOVERNMENTS & OTHERS

Throughout the Covid-19 pandemic, all levels of government introduced pandemic response programs and initiatives. Our office received many inquiries on a wide range of Covid-19 concerns from the public service as public health requirements altered program and service delivery which impacted citizens in different ways.

In Manitoba, municipal and provincial governments contacted our office seeking guidance on disclosure and collection practices for health information, privacy requirements under PHIA, and best practices for safeguarding personal health information as public services adapted their service delivery in response to public health orders. Public administrators also sought guidance as they rolled out initiatives like contact tracing in schools and municipal services, the vaccine lottery, and the Healthy Hire Manitoba Program. We also assisted the Business Council of Manitoba as it worked on behalf of its employer membership to develop best practices for the collection of vaccination information from employees. We leveraged our ongoing collaborations with ombuds and privacy commissioners to provide assistance that aligned with other Canadian jurisdictions.



COLLABORATION, EDUCATION, AND OUTREACH

COLLABORATION WITH CANADIAN OMBUDS AND PRIVACY COMMISSIONERS

Collaboration for shared benefit

In 2021-22 information and privacy commissioners (IPC) and the Canadian Council of Parliamentary Ombudsman (CCPO) provided platforms for the exchange of ideas and information on the following shared interests:

- Ombuds exchanged information about the service delivery models across the country, including remote operations which required many employees to work from their homes.
- As part of a learning series sponsored by the CCPO, we informed other offices of our approach when addressing complaints filed by advocacy groups on behalf of their clients (as an independent office, we consider the advocate's complaint but do not participate in advocacy for their clients).
- Manitoba Ombudsman hosted the IPC for its annual meeting in May 2021 and participated in shared training for information and privacy investigators held in two parts (April and November 2021).

Information sharing for our benefit - mandatory breach reporting

This year, we also learned from some Canadian information and privacy officials who had experience with mandatory privacy breach reporting requirements (public bodies and trustees must report privacy breaches under certain conditions) before our province adopted the practice as part of FIPPA and PHIA amendments in January 2022. This collaboration was helpful and informed our revised and strengthened approaches to risk assessments and breach investigation practices.

EDUCATION & OUTREACH ACTIVITIES

Internships

We hosted two policy internships with our office in 2021 to connect with a younger demographic and create interest in the work of our office. We believe our office has an obligation to invest in the learning and development of individuals who are interested in pursuing a career in the public service. The two interns included:

- a recent graduate of the Master of Public Administration program (University of Manitoba/University of Winnipeg)
- an international post-graduate student in the Master of Economics program (University of Winnipeg)

Presentations

Despite the disruption caused by the Covid-19 pandemic which limited gatherings of any size, our office pursued its agenda to help others understand the ombudsman's mandates and related legislation. Our staff delivered virtual training, information sessions, and Brown Bag Talks during the reporting period which included:

- Privacy-related training and information to the Community Legal Education Association
- Privacy check-ups and sessions about decision making when disclosing personal health information with Southern Health-Sante Sud and Northern Health Regions
- FIPPA 101 training for the Northern Health Region
- Privacy and security safeguards for Southern Health-Sante Sud



5-Minute Privacy Checkup: Personal Information and Personal Health Information

Access and Privacy Division
Manitoba Ombudsman

PHIA Morning - June 17, 2021
www.ombudsman.mb.ca

Speaking Events

The ombudsman also participated in several speaking engagements and panel discussions held at various virtual events across Canada, presenting on the topics of innovation in ombuds work, facilitating transparency for the public, and privacy regulation and oversight.

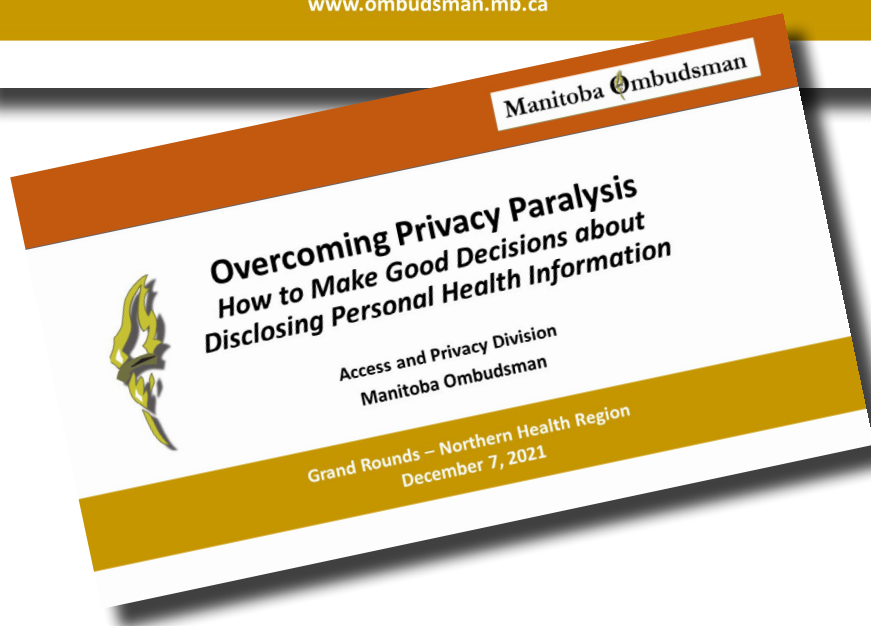
These efforts support greater awareness within the communities of practice in which we work directly or serve with our knowledge about the principles and laws that protect access, privacy, and good governance for the citizenry.

Other Events

Our staff strive to bring awareness about our office by attending events in our communities where we can meet people in person to discuss issues, distribute education materials, and promote our services for current or future reference.

Unfortunately, the Covid-19 pandemic curtailed the plans of many host organizations in 2021-22 and very few events managed to proceed as they have historically. Travel restrictions and remote work associated with pandemic public health restrictions meant that our in-person outreach had to be suspended for extended periods of time.

We were pleased to return to the Association of Manitoba Municipality Annual General Conference in November 2021 at the RBC Convention Centre in Winnipeg.

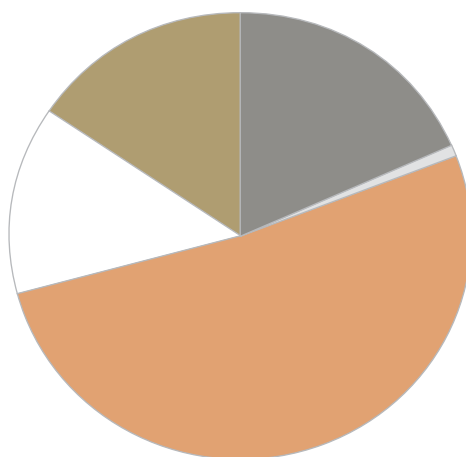


INTAKE SERVICES

All public inquiries and complaints received by our office are handled by intake staff who help citizens with information about their rights, public services, processes, and alternative resources. In 2021-22, intake staff handled **4,019** inquiries and complaints.

16% of inquiries and complaints were about FIPPA matters

14% of inquiries and complaints were about PHIA matters



19% of inquiries and complaints were about matters unrelated to the ombudsman's jurisdiction

1% of inquiries and disclosures were about PIDA matters

53% of inquiries and complaints were about matters under the Ombudsman Act

As the first point of contact with the public, intake staff accept calls, meet with complainants and respond to emails, written inquiries, complaints and disclosures. To help people at intake, we:

- explain the role and function of our office
- explain 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)
- identify the specific nature of complaints
- assess jurisdiction
- explain other avenues of review or appeal
- make preliminary inquiries about complaints
- review documentation and conducting research
- prepare cases to be opened for investigation
- refer people to resources, including brochures and guides on our website, as well as information and resources from other organizations
- make referrals to other agencies who can help, if we cannot

"Thank you for your time, it is greatly appreciated. I have a good understanding of how to view the role of the Manitoba Ombudsman now. I hope to NOT be following up in the future, but feel more confident moving forward and trying to persevere with the City of Winnipeg knowing that the Ombudsman is there to potentially assist me at a next possible stage."

EARLY RESOLUTION CASES

At intake, we try to resolve citizen matters quickly and informally, if we can, by focusing on fairness and compliance. Not every complaint requires a formal investigation and informal assistance can often produce the best outcome for the person who needs our help. We might refer people to the right office, guide them to a resolution process that exists with a public body or trustee, help them understand a public body or trustee's process or get more information, like correspondence, records, or decisions. Below are some examples of the complaints we received and how we resolved them at the intake level.

A citizen contacted us with a Manitoba Hydro billing concern. After reviewing their invoice, the customer determined they had overpaid due to an error with service connections. While Manitoba Hydro originally offered an account credit to the customer, the individual wanted a cash refund. Manitoba Hydro further agreed to issue a refund including GST and PST but the customer believed they were also entitled to interest. Our team facilitated communication with the Manitoba Hydro Customer Service department and the customer ultimately received the full refund they were entitled to, with interest.

We received a complaint from a person who was trying to reach the Manitoba Economic Support Centre about a provincial financial support program that was posted on its website. Despite the posted contact information, the phone line wasn't accepting calls from the public and there was no indication on the website that the line was discontinued. Ultimately, we did not investigate the matter but connected the person with the right provincial contact to help them access financial assistance. We also requested that inaccurate contact information be removed from the provincial website.

We received multiple complaints about the Manitoba Public Insurance (MPI) process when insurance claimants chose to have their vehicle written off instead of repaired (known as a "constructed total loss"). Claimants felt the Actual Cash Value (ACV) in the settlement process was unclear and the wording in MPI's standard form was confusing. Our office worked with MPI on this matter and they agreed to reinforce information for staff who work on these type of claims and committed to develop a new form specifically for this situation to provide more clarity for claimants.

A person contacted our office reporting extremely cold temperatures in a Sheriff Services vehicle used to transport inmates from a correctional facility to the Winnipeg Law Courts in winter. Our office inquired with Sheriff Services and the originating correctional facility to understand what measures were in place to prevent temperature-related injuries to passengers in transport vehicles. Sheriff Services inspected and repaired the vehicle's heating unit and ordered survival kits for all inmate transport units. The correctional facility also updated their policy to ensure thermal emergency blankets and extra clothing are included in their winter survival kits.

A Winnipeg hospital denied visitation to a father whose son was terminally ill due to its limits on designated visitors during the COVID-19 pandemic. In this case, the patient's spouse and mother were the designated visitors. The patient's father contacted our office to determine if there was anything that could be done. We connected him to the hospital's Patient Relations office that same day who arranged a visit with his son. The individual who contacted our office was pleased with our timely response as he was unfamiliar with that service.

Our office was contacted by the family of an individual who had passed away while residing in a personal care home. The family had concerns about the treatment the individual had received while in the personal care home and wanted access to the individual's personal health information but didn't know how to request this information under PHIA. Our office provided information about how to exercise the rights of another person under the act, including information about how to make a request for access.

An individual contacted our office after attending a consultation with a health professional. The individual had concerns that other people's personal health information, including before and after pictures of other patients, had been used in the consultation appointment. Our office contacted the health professional directly and we learned that the information was being used with consent, though the health professional agreed to put in place additional safeguards moving forward.

Several patients contacted our office after the medical clinic they had attended closed and they were unable to access their personal health information. Our office was able to locate where the records were being held, and provided information about how these individuals could obtain access to their personal health information from the third party storage facility.

An individual reached out to us after they made a request for imaging reports related to a medical issue. Although the individual was provided with written copies of various imaging reports, the individual wanted copies of the CT images rather than the reports and did not understand the terminology of the records he wanted to obtain. Our office facilitated communication between the individual and the facility so they could obtain copies of the CT images.

An inmate contacted us with concerns that they had not received a FIPPA access decision letter within the legislated time frame in response to a FIPPA request made to a public body. Our office made inquiries with the public body (Manitoba Justice) and learned that it did not receive the request for access. We worked with the correctional facility to ensure the inmate had the FIPPA application forms. We then verified receipt of the FIPPA application with the public body.



ACCESS AND PRIVACY

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT | THE PERSONAL HEALTH INFORMATION ACT

ABOUT FIPPA AND PHIA

Access to information legislation ensures that people can see and understand the actions and decisions of their government – government information is open to citizens unless it is subject to exceptions in sharing it. This gives people a right of access to general information and to their own personal information held by public bodies. The acts also provide for the right to privacy for personal and personal health information collected, stored, and used and disclosed by public bodies.

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, if a public body or trustee has:

- not responded to a request for access within the legislated time limit
- refused access to 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, disclosed, or failed to protect 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 to:

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

FIPPA & PHIA - Who is subject to the laws:

FIPPA requires public bodies to provide access to information and protect the privacy of personal information in the records they keep. It 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

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. It 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

FIPPA became law in 1998 and amended in 2011 and 2022. FIPPA replaced the Freedom of Information Act that had been in force since September 1988. PHIA became law in 1997 and amended in 2010, 2011 and 2022.

If a FIPPA/PHIA complaint was received by the ombudsman on or before December 31, 2021 it was processed under the 2011 version of the act. A complaint received on or after January 1, 2022 is processed under the 2022 amended act (except for FIPPA access decisions made under the 2011 act).

NEW: MANDATORY PRIVACY BREACH REPORTING

New amendments to FIPPA and PHIA came into force in 2022, placing requirements on public bodies and trustees to notify individuals affected by a privacy breach when a real risk of significant harm is determined for those individuals.

Where a public body or trustee provides notice of a privacy breach to an individual under FIPPA or PHIA, the public body or trustee must notify the ombudsman of the privacy breach.

See the Manitoba Ombudsman Practice Notes on our website under “What to do When a Privacy Breach Occurs” for further information.

For more information about our work in reviewing privacy breaches, please see the section on “Reviews of Privacy Breaches Reported to the Ombudsman”.

www.ombudsman.mb.ca • ombudsman@ombudsman.mb.ca • 1-800-665-0531 or 204-982-9130

FIPPA

KEY CHANGES FOR JANUARY 2022

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

FIPPA Access Requests

- » Access requests to public bodies and complaints to the ombudsman must be in writing but there is no longer a requirement to use a prescribed form. Using a form for access requests is encouraged and public bodies may create their own forms.
- » Public bodies are required to protect an applicant's identity and any other personal information when processing an access request.
- » Public bodies may write to applicants requesting additional information that is necessary to process the access request. If an applicant does not respond within 30 days, the request can be considered abandoned.
- » The time for responding to access requests is now 45 days. There are new circumstances for extending the time limit for an additional 30 days. The ombudsman may still grant longer extensions. The time limit for transferring a request is now 10 days. Once transferred, a response is due in 45 days.
- » Public bodies may consider the number of requests made by the same or related applicants when making a decision to disregard requests.
- » Labour relations information, workplace investigations and legal privilege are new exceptions to disclosure.

Privacy Matters

- » It is now mandatory to report privacy breaches of personal information where there is a real risk of significant harm. The public body must notify both affected individuals and the ombudsman.
- » The duty to adopt reasonable safeguards to protect personal information has been strengthened. Individuals can make a complaint to the ombudsman if they believe their personal information has not been protected in a secure manner.

Other Provisions

- » Individuals may seek to correct their personal information without first having to obtain the information by making an access request. If a public body refuses to make the correction, individuals are permitted to file a statement of disagreement.
- » Employees of a public body may notify the ombudsman if they reasonably believe the public body is treating personal information in an unauthorized manner, and no adverse actions may be taken against them for doing so.

For More Detail

- » Consult Bill 49 (FIPPA) to see all amendments to the act: web2.gov.mb.ca/bills/42-3/index.php
- » Watch for upcoming webinars and new resources from both the Information and Privacy Policy Secretariat and Manitoba Ombudsman.

Manitoba Ombudsman

Looking for more information about FIPPA, PHIA and the new amendments...

For information about FIPPA amendments, refer to our Infographic “[FIPPA: Key Changes for January 2022](#)” on our website (pictured above), or visit https://www.gov.mb.ca/fippa/amend_detail.html

For information on the PHIA amendments, visit: https://www.gov.mb.ca/health/phial/docs/amendments_faq.pdf

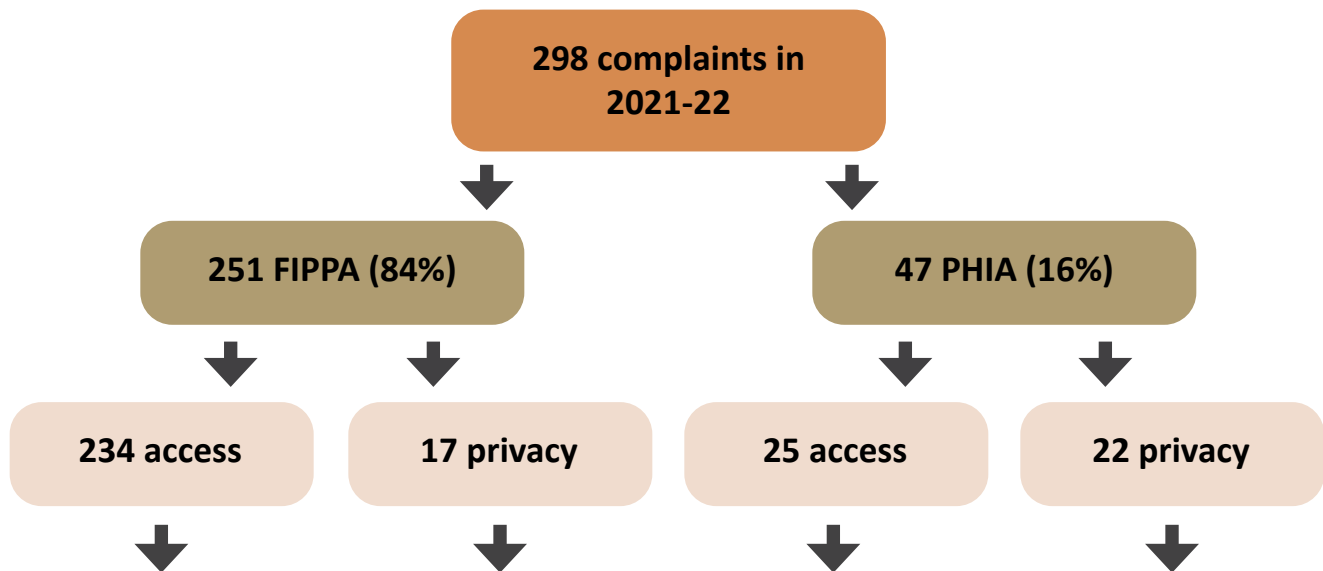
For general information on FIPPA, see the Manitoba Finance FIPPA web pages at <https://www.gov.mb.ca/fippa/>.

For general information on PHIA, see the Manitoba Health PHIA web pages at <http://www.gov.mb.ca/health/phial>.

FIPPA and PHIA Overview 2021-22

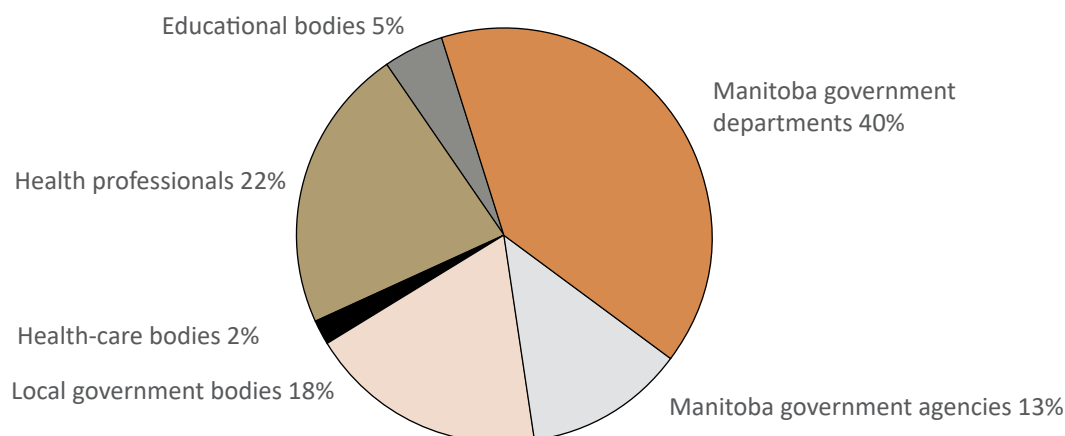
298	new complaints opened for investigation	173	informal consultations with public bodies and trustees
89	other complaints dealt with informally at intake stage	7	investigation and audit reports posted on our website
63	privacy breaches reported to our office by public bodies and trustees	4	access and privacy presentations
26	requests for approval of longer extensions of the time limit for responding to access requests	10	practice notes published

The investigation of complaints from citizens continued to be our primary focus throughout 2021-22. We commenced investigations in response to 298 of the complaints we received, 79 per cent of which were in relation to FIPPA access matters. As 200 of the complaints under investigation during 2020 continued to be investigated in 2021-22 our workload of complaints totaled 498 investigations. We closed 293 (59 per cent) of the total complaints during 2021-22.



FIPPA access complaints		FIPPA privacy complaints		PHIA access complaints		PHIA privacy complaints	
Refused access	121	Collection	2	Refused access	2	Collection	2
No response	45	Use	6	No response	6	Use	9
Request was disregarded	30	Disclosure	9	Adequacy of search	9	Disclosure	9
Extension	7			Other matters	8	Security	2
Fees	9						
Adequacy of search	13						
Other matters	9						

Distribution of FIPPA and PHIA complaints received in 2021-22 by type of public body or trustee



Outcomes of 293 complaint investigations completed

86	Supported in whole or in part, meaning there was substance to the complaint
101	Not supported at all, meaning no aspect of the complainants' concerns were determined to be well-founded
44	Resolved during the investigation without the need to make findings, by investigators working with complainants and public bodies/trustees to address the complainants' concerns
33	Discontinued or declined
29	Recommendations made

FIPPA Complaints Closed	Total	Declined or discontinued	Supported in part or in whole	Not supported	Resolved	Recommendation made
Type of Access Complaint						
Refused access	110	14	26	51	17	2
No response	76	6	38	-	6	26
Request was disregarded	10	3	1	2	3	1
Extension	6	1	-	5	-	-
Fees	11	1	7	2	1	-
Fee waiver	1	-	-	8	3	-
Adequacy of search	11	-	5	2	4	-
Correction	1	-	-	1	-	-
Other access matters	10	1	3	5	1	-
Type of Privacy Complaint						
Collection	1	-	-	4	1	-
Use	3	-	1	1	-	-
Disclosure	10	-	6	4	1	-
TOTAL	250	25	78	83	35	29

PHIA Complaints Closed	Total	Declined or discontinued	Supported in part or in whole	Not supported	Resolved	Recommendation made
Type of Access Complaint						
Refused access	3	-	-	2	1	-
No response	6	1	1	-	4	-
Correction	2	-	-	2	-	-
Adequacy of search	9	2	-	7	-	-
Other access matters	6	-	1	3	2	-
Type of Privacy Complaint						
Collection	1	1	-	-	-	-
Use	3	1	-	1	1	-
Disclosure	11	11	8	2	-	-
Security	2	2	3	1	1	-
TOTAL	43	8	8	18	9	-

For more detailed information about FIPPA and PHIA complaint investigations, please see the tables on pages 50-52.

ACCESS TO INFORMATION MATTERS

2021-22 trends:

- 52% of the access complaints (110 of 234 complaints) under FIPPA were made about public bodies' decisions to refuse access to the requested records.
- 19% of the access complaints (45 of 234 complaints) under FIPPA were made about public bodies' non-compliance with legislated time frames to respond to access requests.
- 13% of the access complaints (30 of 234 complaints) under FIPPA were made about public bodies' decisions to disregard requests for access to records (by comparison, we received 10 of these complaints in 2020, 14 in 2019, 20 in 2018, and six in 2017).

Access to information investigation reports

Our investigation reports describe the issues we considered in the case, explain our interpretation of FIPPA and PHIA as it applies, and explain our findings and recommendations. We publish reports with recommendations on our website, along with other reports where we supported, partly supported, or did not support complaints, or when complaints are resolved without making findings. In 2021-22, we published three access-related reports; all included recommendations. These reports, and others we feel may be informative to public bodies and the public, are highlighted on the following pages.

FIPPA Case Example #1

Recommendation made

Requested review by information and privacy adjudicator

17(1) & 17(3)(i) Disclosure harmful to a third party's privacy

23(1)(a) & (b) Advice to a public body

25(1)(n) Disclosure harmful to law enforcement or legal proceedings

27(1)(a) & (b) Solicitor-client privilege

The City of Winnipeg refused access in part to records relating to the applicant's claim for sewer back-up damage. It made the refusal on the basis that the disclosure would reveal advice to a public body, unreasonably invade an individual's privacy, and be harmful to law enforcement or legal proceedings. Furthermore, the city refused access to information that falls under solicitor-client privilege.

The city refused to provide records for review by our office on the basis of its claim of solicitor-client privilege. It took the position that the records were made in anticipation of litigation and considers all claims made through its administrative process to be in anticipation of litigation, regardless of whether the claimant indicates intention to file a lawsuit.

We considered the city's representations regarding the application of solicitor-client privilege and found that the city had not established that these exceptions applied. In the absence of records for review, our office was unable to conclude that the other exceptions relied on by the city applied to the withheld information. The ombudsman recommended that the city provide the complainant with a copy of the withheld information, with the exception of any information withheld under section 17 of FIPPA.

FIPPA required that the city give its response to our report by March 31, 2021 to indicate whether it accepted the recommendation. We received the response from the city on March 31, 2021 indicating that it was not accepting the recommendation. As a result, on April 12, 2021, the ombudsman requested a review of the city's decision to refuse access by the information and privacy adjudicator.

The information and privacy adjudicator issued his decision on October 14, 2021 and found that the city had not established that the withheld information was subject to the exceptions to access in sections 25 and 27, and ordered the city to release this information. The city sought judicial review of the adjudicator's order and no decision has been issued as of March 31, 2022, the end of our reporting period.

FIPPA Case Example #2

Complaint partly supported

18(1)(b) Disclosure harmful to a third party's business interests

20(1)(e) Information provided by another government to department or government agency

Manitoba Public Insurance (MPI) refused access to a record containing information that contrasts traffic violations across each jurisdiction in Canada. It made the refusal on the basis that:

1. disclosure would reveal technical information of a third-party business; and
2. that disclosure would reveal information provided to the public body in confidence by an organization representing one or more governments.

We determined that the withheld information was not the technical information of a third-party business, and found the public body was not authorized to refuse access on this basis.

However, we determined that the withheld record contained information provided to the public body in confidence by an organization representing one or more governments and, as such, the public body was required to refuse access on that basis. Based on our findings, the complaint was partly supported.

FIPPA Case Example #3

Complaint partly supported

9 Duty to assist applicant

Manitoba Economic Development and Training received a request seeking records of correspondence sent to post-secondary institutions about funding. The department granted partial access to two email records. Our office received a complaint about the department's search for records.

The complainant believed more responsive records existed but were not provided by the department. He made similar requests to post-secondary institutions and received records from post-secondary institutions that had not been included within the department's response to his FIPPA request.

Our finding after review was that Manitoba Economic Development and Training's search for records was thorough and reasonable in response to the request. However, we found that the department applied a narrow interpretation to the term "funding" and did not fully consider or discuss the intended scope of the request from the complainant's perspective. As such, the complaint was partly supported.

Reducing Reliance on FIPPA by Promoting Proactive Disclosure

An amended FIPPA requires that certain information be released publicly within a certain period of time including:

- a summary of most¹ access requests received under the act within 14 days of receipt;
- some records more than 100 years old;
- ministerial expenses - including a summary of the total annual expenses incurred by each member of Executive Council for transportation and travel, accommodation and meals, promotion and hospitality, and cell phone and personal electronic communication devices;²
- Executive Council records including orders in council³ and any letter (or revised letter) in which the president of the Executive Council establishes the mandate of a minister⁴;
- Ministerial records including:
 - the table of contents and index for the package of briefing materials that is prepared for a minister for the purpose of enabling the minister to assume the power, duties and functions of their office, within 60 days after a minister assumes office;
 - the table of contents and index for the package of briefing materials that the department prepared for the minister concerning the department's estimates, and the content of the package of briefing materials that is not otherwise subject to an exception to disclosure under Part 2, within 60 days after the estimates of a department are concurred with by the legislative assembly.
 - employee codes of conduct; employee engagement surveys and a summary of the survey results;⁵
 - summaries of the total annual amount of out-of-province transportation and travel expenses incurred by each member of the board of management/directors or governing board and the chief executive officer or equivalent;
 - summaries of respectful workplace reports and statistics for each year, including the number of respectful workplace complaints received, the number of investigations conducted and, unless subject to an exception to disclosure, the outcomes of the investigations and related disciplinary actions taken.

Note that both citizens and public bodies have roles to play in making the FIPPA process work well. Citizens are encouraged to see if the information they wish to access is available on a public site or through information processes before making a formal FIPPA request.

Similarly, if a person makes a FIPPA request because they are unfamiliar with what information is publicly available or how it is organized, the public body should explain how the information can be located or accessed without requiring a request under the act. Helping citizens understand when information is publicly available or providing information about how records are organized is the public body's duty under the act.

Reasonable efforts by citizens and public bodies can promote access to information and avoid unnecessary use of the access process under FIPPA.

1 Note that the summary of the request received must not include the name of the applicant or information that is subject to an exception to disclosure under Part 2 of the act. Further, requests by individuals seeking access to a record containing their own personal information is exempt.

2 Note that the summary is to cover the period beginning on April 1 of one year and ending on March 31 of the following year, and must be made available within four months after the end of each fiscal year.

3 As soon as reasonably practicable.

4 Within 30 days.

5 See 76.3(1), and 76.3(2).

FIPPA Case Example #4

Recommendations made

Complaint supported

9 Duty to assist applicant

16(2)(b) Response within 30 days after transfer

59(5) Ombudsman may initiate a complaint

60(3) 120-day time limit for failure to respond

Prior to the 2022 amendments, FIPPA required that a public body make every reasonable effort to respond to an access request within 30 days of receipt or within 30 days after receiving it through a transfer from another public body, unless it extended the time period or transferred the request to another public body.

Manitoba Finance received an access request on February 24, 2020. It was required to issue an access decision to the applicant within 30 days of receiving the request. Almost 16 months passed since the public body received the access request and it had not yet responded to the applicant with an access decision. As the time limit for an applicant to make a complaint to our office had passed, our office chose to initiate a complaint regarding the public body's lack of response to the access request.

Our investigation found that the public body failed to respond within the time limit provided by FIPPA and failed in its duty to assist the applicant. Our office issued a report with recommendations, and the public body notified our office that it was issuing its access decision to the applicant as recommended and providing a copy to our office.

The public body was required to respond in writing to our report by June 18, 2021; however, it did not do so until June 25, 2021. As this was later than the date we specified, the public body did not comply with the time frame set out in our recommendation.

Proactive disclosure of information on a website or in printed form at an office is an important way to inform citizens about a public body's programs and activities. The practice reduces the need for access to information requests because it naturally fosters more openness between the public body and citizen. Each public body should consider what type of information to release proactively by evaluating what information is frequently requested and if there is value to citizens when it is released.

FIPPA Case Example #5

Recommendations made

Complaints supported

9 Duty to assist applicant

11(1) Time limit for responding

15(1)(c) Extending the time limit for responding

Prior to the 2022 amendments, FIPPA required that a public body make every reasonable effort to respond to an access request within 30 days of receipt, unless it extended the time period or transferred the requests to another public body.

Manitoba Infrastructure received requests for records on August 27, 2020. It informed the applicant it was extending its time limit to respond under clause 15(1)(c) to October 26, 2020.

Over six months passed between that date and the date of our report with recommendations, and the public body had not yet made access decisions. We found that Manitoba Infrastructure did not comply with the time limit for responding to the requests and uphold its duty to assist the applicant.

On March 12, 2021 the ombudsman made two recommendations to the public body: first, that it provide a response to the applicant no later than March 29, 2021; and second, that it provide our office with a copy of its response.

The public body accepted the recommendations and it made its access decisions within the time limit, complying with the recommendations.

FIPPA - Longer extension requests

Requirements before FIPPA amendments (Jan 1, 2021 to Dec 31, 2021)

Prior to amendment, FIPPA required a public body to respond to an access request within 30 days of receiving it. The public body could extend the time limit up to an additional 30 days in certain circumstances, such as:

- when many records are requested or must be searched and 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 believed more than 60 days was needed to respond, it could request approval from the ombudsman for a longer extension. To be approved, the public body had to demonstrate that an extension was permitted under FIPPA and the extra time requested was reasonable.

In 2021, we received 17 requests for approval of longer extensions from public bodies. Two included issues caused by the Covid-19 pandemic (resources redeployed, limited access to records while working from home, heavier workloads, and third party consultations taking more time). Of the 17 requests for longer extensions, 15 were approved in full or in part.

A public health emergency like the COVID-19 pandemic would not be, on its own, a basis to extend the time limit under FIPPA's prior provisions but some issues caused by the pandemic were relevant to the reasonableness of the time needed for an authorized extension.

Requirements after FIPPA amendments (Jan 1, 2022 to Mar 31, 2022)

An amended FIPPA requires a public body to respond to an access request within **45 days** of receiving it. It can extend the time limit for up to **30 more days** (or longer, if the ombudsman agrees). There are changes to the circumstances where an extension may be taken, such as:

- when responding within the regular time limit would be unreasonable either because a large number of records is requested or must be searched, or because of the number of requests made by the applicant and/or associated applicants
- when time is needed to consult with a third party or another public body or to obtain legal advice before deciding whether to give access to a record
- when the applicant consents to the extension
- when exceptional circumstances warrant the extension

If the public body determines it is unable to respond to the request within 75 days, it can ask the ombudsman to approve a longer extension. In the first quarter of 2022, our office received nine such requests from public bodies and we approved seven submissions in whole or in part. Typically, when seeking our agreement to a longer extension, it was because the request involved a large volume of records or a need to consult third parties, or both.

Seeking authorization for a longer extension is a time-sensitive process. To assist public bodies, we have a Longer Extension Request Form, submitted online through our website, by email or fax and a practice note which provides more detailed information. These resources are on our website and reflect the amendments made to FIPPA.

Business continuity plans and exceptional circumstances

The COVID-19 pandemic taught us that many public bodies are unprepared to respond to access requests within legislated time frames.

Our office has noted that FIPPA ought to include consideration for extending the time to respond to a request due to extenuating circumstances, like a public health emergency or natural disaster. Amendments to FIPPA create a path for public bodies to extend time limits when exceptional circumstances warrant it.

Public bodies should do the work to prepare for such times and consider their obligations under both FIPPA and PHIA in their business continuity plans. It is their responsibility to be prepared to respond to access requests within legislated time frames precisely when the public's need for information may be substantial, significant, and time-sensitive.

PRIVACY MATTERS

2021-22 trends:

We received many inquiries about privacy issues related to the COVID-19 pandemic from citizens, including the collection, use and disclosure of their personal health information. For example, employers' requests for doctors' notes, and employers inadvertently revealing personal health information about one employee to another.

We received numerous inquiries about collection, use and disclosure of personal health information related to Covid-19 proof of vaccination and testing, both from employees of public bodies and trustees and from the general public who were accessing programs and services.

Public bodies and trustees consulted with us about the privacy implications of working remotely and off-site, conducting virtual meetings, and emailing sensitive personal and personal health information. Public bodies and trustees also consulted with our office about implementing proof of vaccination in a variety of contexts.

Privacy reviews and investigations

We investigate privacy matters in response to citizen complaints and when we view a matter as a broader public concern. In 2021-22, we received 31 privacy complaints and published three privacy-related reports.

PHIA Case Example #1

Manitoba Families, Children's Disability Services Privacy breach report

On August 26, 2020 a privacy breach occurred when an email containing the personal health information of 8,900 children receiving services from the Children's disAbility Services (CDS) program of Manitoba Families was sent in error to approximately 100 service agencies and community advocates, all unintended recipients. The information in the email included the child's name, gender, date of birth, address, the nature of their disability and dates and medical or psychological assessments conducted.

We investigated the privacy breach and considered the circumstances surrounding the breach, including the email practices at issue, as well as some missed opportunities for early detection and prevention of the incident. Our office explored the department's actions following the privacy breach with respect to containing the unauthorized disclosure, evaluating the risk to the affected individuals, approaches to notification and prevention measures taken to avoid a recurrence.

We found that service providers and community advocates, regularly copied on newsletters and other information from CDS, were accidentally blind copied on confidential emails intended only for the Manitoba Advocate for Children and Youth (MACY).

We strongly advocated for the release of the names of the service providers and community advocates to the individuals affected by the privacy breach. As a result, Manitoba Families developed a process for individuals to receive the names of the agency service providers and community advocates.

We noted the role of the service providers and advocates who quickly came forward to alert the department of the wrongly received emails, and provided the steps taken to fully delete the personal health information received. The involvement of these organizations and groups prompted us to consider the vast amount of personal and personal health information of children and adults that

service agencies must also manage on a day-to-day basis. As we considered the privacy obligations of Manitoba Families through a broader lens and the need for a privacy culture within government, it raised the question of service providers' understanding and compliance with the privacy laws, not as specific trustees as defined under PHIA, but as the service partners of government, and how this is developed and maintained.

We found that the department, at various levels, took extensive measures to notify the affected individuals and to keep the public informed through resources placed on the CDS website.

With respect to preventative measures, CDS assured us of the discontinuance of the blind copying practice, of the use of specific instructions for complex communication tasks and the implementation of the revised protocol for data transmission established specific to the MACY operational review.

The primary focus of our investigation was to assess the measures taken by the department to adopt reasonable security safeguards to protect the sensitive personal health information. A long outstanding issue in previous investigations, we reviewed the security safeguards (privacy policies and procedures, training, and pledges of confidentiality) implemented to date by the department to assist CDS and all Manitoba Families' employees in their day-to-day management of sensitive personal and personal health information of their client populations.

Finding that the department has only recently made significant progress in the development of security safeguards required to be in place, we made several recommendations to Manitoba Families to make certain that privacy safeguards are implemented, including a privacy management program to build and entrench a culture of privacy. A privacy culture cannot fully prevent privacy breaches from occurring, but is a component of a strong defense. Our full report emphasizes that implementation of these safeguards is critical to prevent such as a privacy breach of the magnitude which occurred in this case and the work of Manitoba Families in this area remains a priority.

On March 18, 2021 Manitoba Families accepted the nine recommendations made as a result of this investigation. Mindful of the historical lack of security safeguards to protect personal health information collected and maintained within the department (policies, procedures, training and pledges of confidentiality) we sought further evidence of the department's plan to achieve compliance with PHIA and to demonstrate how it would achieve the recommendations. The department must be able to provide evidence to verify that it has developed and fully implemented the required safeguards and employees receive regular training on privacy policies and practices.

In a further response to our office in April 2021, Manitoba Families communicated its implementation plans, showing how it will put security safeguards in place. We have notified it of our intent to audit the department's PHIA compliance and actions taken to implement the recommendations made in our report. The audit will begin in 2022.

Misdirected communication – (email, fax, mail) – is preventable!

- Have clear policies and procedures about communications for staff, posters or other visual notices, and periodic reminders.
- Check and double check addresses, call recipients to ensure accuracy, send a test email or fax first to confirm receipt. Call the recipient in advance of sending a fax if the fax machine is available to others.
- Ensure that any personal or personal health information is password protected or encrypted.
- Avoid using email distribution lists to send personal and personal health information.
- Always use a fax cover sheet that includes both the sender's and recipient's names and telephone numbers.
- Always include a confidentiality notice with emails and faxes.

We have the following practice notes on our website:

- [Privacy Considerations for Emailing Personal and Personal Health Information](#)
- [Privacy Considerations for Faxing Personal and Personal Health Information](#)
- [5-Minute Privacy Checkup: Personal Health Information](#)

NEW! MANDATORY PRIVACY BREACH REPORTING

As of January 1, 2022, under both FIPPA and PHIA, when a public body or trustee determines that a privacy breach creates a real risk of significant harm to affected individuals, the public body or trustee **must** provide notification of the breach to the affected individuals and to the ombudsman.

Prior to the amendments coming into force, reporting privacy breaches to our office was not mandatory under the acts. However, we encouraged public bodies and trustees to self-report privacy breaches to our office specifically where there was a risk of significant harm to citizens affected by the breach.

To assist public bodies and trustees, we have the following practice notes and tools on our website:

- [Key steps in responding to privacy breaches under FIPPA and PHIA](#)
- [Privacy breach notification letter checklist](#), which outlines information to provide to affected individuals being notified of a breach
- [FIPPA privacy breach risk rating tool](#)
- [PHIA privacy breach risk rating tool](#); and
- [Privacy Breach Reporting Form](#) for submitting a breach report to our office

Privacy breaches reported in 2021-22 (voluntary and mandatory)

56	Privacy breaches reported to our office – 44 involved personal information and 12 involved personal health information.
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51	Privacy breach reviews were completed
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Types of privacy breaches by cause in 2021-22

22	Misdirected communication (email, fax, mail)
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9	Theft
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7	Unauthorized disclosure
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7	Snooping
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8	Loss
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3	Lack of safeguards
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4	Other (unauthorized disposal, ransom-ware, phishing)
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Type of public body and trustees that reported privacy breaches in 2021-22

17	Provincial government departments
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20	Health-care facilities and regional health authorities
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7	Provincial agencies
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6	Health professionals
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5	Educational bodies (school divisions, universities, colleges)
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1	Local government bodies, including municipalities
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Outcomes of the 51 privacy breach reviews completed in 2021-22

49 cases*	Resulted in the implementation of administrative safeguards (the policies and procedures that help protect against a breach e.g., the development and/or review of policies and procedures and staff training)
38 cases	Resulted in the public body or trustee notifying the affected individuals about the breach
9 cases	Resulted in the implementation of physical safeguards (physical controls that protect personal and personal health information e.g., security systems, door/window locks, and visitor access controls)
24 cases	Resulted in the implementation of technical safeguards (the technology and related policies that protect personal and personal health information from unauthorized access e.g., encryption, passwords, and user access)

* An individual case may have multiple outcomes

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.

Benefits of reporting a privacy breach

Public bodies and trustees	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.
Citizens	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.
Ombudsman	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 by affected individuals.

SUPPORTING PUBLIC BODIES AND TRUSTEES: INFORMAL CONSULTATIONS AND OUTREACH

Public bodies and trustees contact our office for guidance to assist them with challenging access and privacy issues. When consulting, we may highlight factors to consider when interpreting and applying parts of FIPPA and PHIA, suggest best practices to follow, and refer them to investigation reports, practice notes, or other resources. 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 consult with public bodies when new initiatives or programs with possible privacy implications are reported in media stories. This helps us learn about the initiatives and understand the steps taken by the public body to address privacy issues.

During 2021-22, we had 173 informal consultations about access and privacy matters. Of these, 76 related to matters under FIPPA, and 96 related to matters under PHIA, and 6 related to access and privacy matters that did not fall under FIPPA or PHIA. Of the 173 informal consultations, 21 involved the Covid-19 pandemic.

121 consultations involved privacy matters, including:

- Interpreting/applying FIPPA/PHIA when collecting, using, and disclosing personal and personal health info
- Considerations of reasonable safeguards to protect personal and personal health information
- Requirements relating to the retention of personal and personal health information
- Guidance and resources about the mandatory privacy breach reporting requirements and how to respond
- Guidance on how to protect personal and personal health information while working off site during COVID-19
- How to best protect privacy when implementing new systems and processes as a result of COVID-19
- The use of email to share personal information or personal health information as a result of COVID-19
- Privacy considerations around implementation of proof of vaccination in a variety of contexts

50 consultations involved access to information matters, including:

- Interpreting/applying FIPPA/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 and requirements for taking extensions of the time limit for responding to access requests
- Guidance on how to respond to FIPPA applications during COVID-19, including questions about longer extension requests as a result of COVID-19

Type of public body and trustees who consulted our office on access and privacy in 2021-22

50	Provincial government departments and agencies
41	Healthcare facilities and regional health authorities
25	Health professionals
24	Local government bodies, including municipalities
17	Educational bodies (school divisions, universities, colleges)
16	Other

OMBUDSMAN ACT

ABOUT THE OMBUDSMAN ACT

Under the Ombudsman Act, our office investigates complaints from citizens concerning administrative actions and decisions made by government departments and agencies, municipalities, and their officers and employees. An administrative matter for investigation can include any practice, procedure, action or decision that government makes as it implements or administers its laws, programs, and policies.

Our intake team tries to see if complaints can be resolved informally. Where early resolution is not possible, we will open an investigation into the matter.

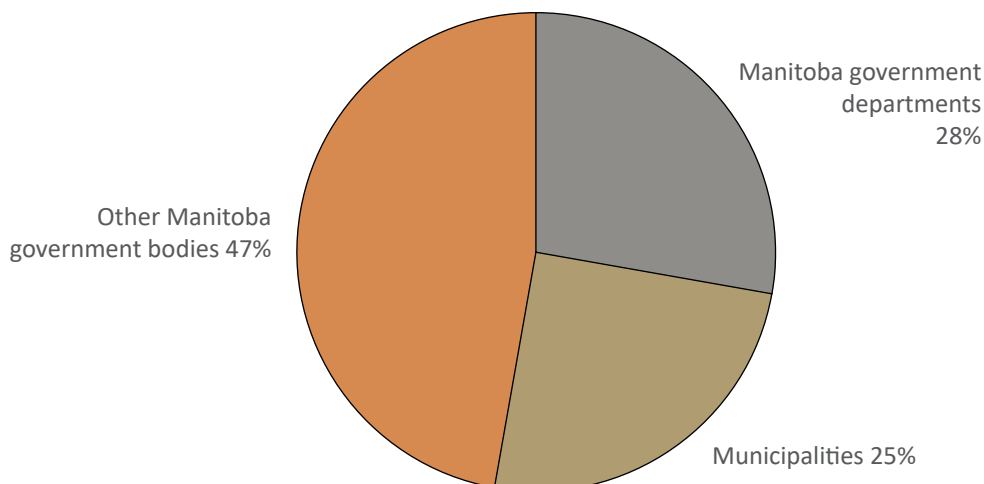
Investigators assess whether administrative processes and procedures are followed according to applicable legislation, regulation and/or existing policies. We also consider the fairness and reasonableness of government actions and administrative decisions.

If a complaint is supported, we may make recommendations to the public body that is the subject of the complaint or suggestions for administrative improvement. Improved administrative practices can enhance the relationship between government and the public, and reduce administrative complaints.

The ombudsman also has the discretion to open their own investigation, without having received a complaint, if they believe there is a matter of administration by which a person or the broader public may be aggrieved.

During 2021 we investigated provincial and municipal public bodies involving a range of issues. Highlights of some of the investigations completed can be found on the following pages.

Distribution of cases opened under the Ombudsman Act in 2021-22



For more detailed information about Ombudsman Act complaint investigations, please see the table on page 53.

COMPLAINT INVESTIGATIONS

Ombudsman Act Case Example #1

Supported in part

Administrative recommendation

"To ensure fair decision making by staff, public bodies must establish processes that support decisions that are based on complete and relevant information, reflect an appropriate exercise of discretion, and reasonably consider the specific case and people's individual circumstances."

Decisional Fairness
Standard 4: Equitable
Fairness by Design: An Administrative Fairness Self-Assessment Guide, Canadian Council of Parliamentary Ombudsman, 2020

An Unhealthy Bill

A complainant who traveled to North Dakota for health care ended up with a medical bill of almost \$70,000. When Manitoba Health and Senior Care (the department) refused to reimburse them for the costs, they complained to our office.

The complainant believed the department should have covered the cost under an existing cross-border agreement. In addition, the complainant noted that the treatment she received from the U.S. clinic was the result of an emergency situation and, therefore, should have been eligible for reimbursement under health care legislation.

In reviewing the matter, we looked at the cross-border agreement the department has with American health care providers to deliver insured medical services to Manitobans living close to the border. The agreement allows these residents to attend to clinics in two Minnesota towns. We also reviewed the applicable legislation for reimbursement of medical expense incurred outside Canada.

In this instance, the complainant attended one of the approved clinics for treatment; however, a doctor there referred her to a clinic in North Dakota where the health care costs were incurred. The complainant said she was unaware this clinic was not part of the cross-border agreement. Our office reviewed the agreement and concluded that the department's decision was in accordance with the current cross-border agreement.

The department also took the position that the complainant's condition was not an emergency and her costs were not eligible for reimbursement under the applicable legislation.

The Medical Services Insurance Regulation 7(2) provides for Manitobans to be reimbursed for health care costs if the treatment is required because of an accident or sudden attack of illness. The department took the position that the treatment received by the complainant at the North Dakota Clinic was non-emergent.

In reviewing the matter, we noted there is no clear definition of what constitutes an emergency in the regulation. Both parties put forward evidence to support their case. Without a clear definition, our office was unable to conclude that the department acted contrary to the regulation.

Nevertheless, we recommended that the department review the matter again to determine whether the medical fees were eligible for reimbursement given the ambiguous nature of what constitutes an emergency in the regulation. We also believed the case warranted further consideration given that the complainant was acting on instructions from her doctor who sent her to the North Dakota Clinic. Our view was that given the circumstances, she acted in a reasonable manner.

The department agreed to conduct another review which reaffirmed its initial decision not to reimburse the complainant. It did, however, adopt our recommendation to provide greater and more detailed information to residents in the affected region of the rules of the cross-border agreement.

Ombudsman Act Case Example #2

Municipal by-law enforcement

Supported

Recommendations made

Not into the Music

Not everyone was dancing when a municipality decided to allow musical festivals and retreats on private property. The neighbour said the noise and commotion was too much to take and filed a complaint with our office. They claimed the municipality wasn't doing enough to enforce noise restrictions outlined in the permit conditions.

The complainants said they tried to contact the rural municipality (RM) when music continued to play past 2:00 am, well beyond the time limitation in the permit. They said they were unable to reach the RM by-law enforcement officer or the RCMP.

Our review of this complaint focused on the RM's enforcement of the conditions attached to the permit.

Under section 13 of the Planning Act, the council of a municipality is responsible for the adoption, administration and enforcement of its zoning bylaw and all other by-laws respecting land use and development for the municipality.

The RM indicated that in certain instances it does have its by-law officer working beyond normal hours if needed to attend special events. It also advised that like other municipalities, it relies on the RCMP for community enforcement matters.

In our view, if the RM applies conditions to a permit it issues, it must ensure that it has the ability and mechanisms in place to enforce them. In this instance we recommended the RM develop criteria to determine when it will extend the hours of by-law officers to ensure permit conditions are enforced.

The RM advised our office that, going forward, it would ensure by-law enforcement officers are in attendance during the entire duration of events such as the one that brought forward the complaint.

Ombudsman Act Case Example #3

Procedural by-law compliance

Supported

The Rules are the Rules

It was a day to celebrate – the inaugural meeting of municipal council following the election. Family and friends were coming to witness the swearing in ceremony and take photos and videos to commemorate the day. However, the RM's procedural by-law doesn't allow for the audio and/or videotaping of meeting proceedings by the public or media. This resulted in a complaint to the ombudsman.

The RM indicated it did not consider that section of its bylaw given the ceremonial nature of the inaugural meeting. Our office, while understanding the municipality's position, determined that if council wanted to allow for video recording/photos, then it should have followed and suspended its procedural by-law prior to allowing for photos and video to be taken.

Once a municipality has created by-laws which specifically address certain situations, it is bound to act in compliance with those by-laws, consistently and without exception.

A Legal Gap

A complainant was frustrated as he believed his landlord was overcharging him on rent so he took his case to the Residential Tenancies Branch (RTB). The RTB told him the Residential Tenancies Act (the act) does not apply to his matter and therefore the rules regarding rent controls were not applicable. The complainant disagreed and complained to our office.

The complainant lives in what is known as a modular or manufactured home. These types of homes are often placed on leased land, under an agreement with the landowner or developer. In this case, the complainant's home is located in a mobile home park and the complainant pays rent to the park's owner.

The complainant said the RTB had initially advised him that his residence fell within the act and therefore would have the same protections afforded to others who enter into rental agreements. The complainant appealed the matter to the Residential Tenancies Commission (RTC), arguing that modular/manufactured homes are simply the modern equivalent of mobile homes and therefore should be treated the same.

The RTC indicated it was not prepared to interpret the legislation that way and that if the act was to include modular/manufactured homes, then the province would need to amend it. The RTC noted that at least two other provinces (Ontario and Saskatchewan) have special definitions in their residential tenancies legislation that apply to the rental of land other than a mobile home site.

The mandate of our office is not to set policy or draft legislation. It is part of our job to bring government's attention to potential policy or legislative gaps. In this case, it appeared that such a gap might exist in terms of the regulatory scheme for modular/manufactured homes. As such, we advised the finance minister who is responsible for the legislation. He indicated that the RTB will be monitoring the issue over the next year for feedback from stakeholders and will revisit the regulatory provisions to ensure they are considered in future legislative reviews.

Ombudsman Act Case Example #4

Procedural by-law compliance

Supported

Unhappy Trails

A trail used by snowmobilers drew the ire of the neighbouring property owner when their property and a public reserve were used to access a frozen river. The complainant reported concerns about the safety of walking residents and the noise and lights from snowmobilers passing his home late at night. He claimed the RM was not treating him fairly in its refusal to address his concerns. He also believed the use of snowmobiles on public reserve land is contrary to law and may result in increased liability for the RM.

In reviewing this matter, we first investigated if the municipality was complying with the law by allowing riders to use the trail. The Planning Act provides for public reserve land to be used only for a public park; a public recreation area; a natural area; a planted buffer strip separating incompatible land uses; or public works. It also give municipalities the authority to limit or restrict certain activities on Public Reserve lands.

Our review determined that a snowmobile trail is a permitted use for public reserve land and the RM did not have any land use nor noise bylaw prohibiting the use of snowmobiles. We found that the RM had not acted contrary to the Planning Act or its by-laws in allowing snowmobiling on public reserve land. We found the decision by the RM to allow the use of snowmobiles links directly to its vision and mandate marketed through promotional material and its website, favouring groups that use the area for recreational purposes. Such a decision represents what could reasonably be expected, based on the existing culture of the community.

However, the Off-Road Vehicles Act does not allow for snowmobilers to travel on private property without the property owner's consent. The RCMP attended the site and wrote the RM offering their assistance and recommendations which supported the complainant's safety concerns and an alternate route to the river. While enforcement of the act is a matter for the RCMP, we believe there was an obligation for the RM to intervene. Municipalities have a responsibility as a government to uphold the laws of the province and develop and maintain safe and viable communities. They can fulfill this responsibility by working with community partners, passing by-laws, and communicating community restrictions that support and protect the safety of its citizens.

As such, our office recommended that the RM work with local RCMP to ensure snowmobiling is done in compliance with legislation. We were of the opinion that the RM's lack of intervention in this matter was an unreasonable omission and pointed to similarly situated RMs who have undertaken snowmobile specific bylaws, including snowmobile noise bylaws and designated snowmobile routes. We recommended that the RM reviews such plans and bylaws with a view to consider best practices as it pertains to the regulation of snowmobile usage and how they might apply in the community.

Ombudsman Act Case Example #5

High Score Doesn't Always Win

Province of Manitoba

Procedural Fairness in Decision Making

Supported

Recommendation Made

A complainant received the highest score on his application for a Crown land lease but eventually lost out on the property when it was given to another applicant with a lower score.

The person with the highest number of points contacted our office as he believed he was treated unfairly and not provided with an explanation as to why someone with a lower score won out.

Through the department of Manitoba Agriculture and Resource Development, the province makes some of the land it owns available to individuals and groups for agricultural purposes through leases and permits. It is allocated by the director of agricultural Crown lands through either an auction or an application process. The latter involves a scoring system in which typically the applicant with the high score is awarded the land. In this case, the complainant was initially awarded "hay and/or grazing rights" to two parcels of agricultural Crown land. That decision, however, was overturned by the Agricultural Crown Lands Appeal Tribunal. The tribunal referenced the "unique circumstances" of the matter but did not identify what those circumstances were in its decision.

Section VI of the Agricultural Crown Lands Policy 204-1 Allocation of Crown Lands Under Agricultural Forage Leases & Renewable Permits allows parcels to be allocated to someone other than the top scoring applicant. The Crown Lands Act also gives the tribunal the power to confirm, reject or change the director's decision. It can also send the decision back to the director to be reconsidered.

While the tribunal acted within its authority, our office was of the view that it had not met the fairness test in providing adequate reasons for its decision. Giving reasons for decisions is a key element of a fair process. Documenting and providing reasons for decisions reduces the chance of subjective or improper decisions and cultivates the confidence of citizens and public officials. Reasons can demonstrate that decision-makers considered and understood the information presented to them and that they considered relevant criteria.

As such our office recommended the complainant be provided with a fuller explanation. The tribunal was concerned about protecting the privacy of the party it had awarded the land to; however, our office indicated that there was information that could be provided to the complainant without compromising the privacy of the third party. The tribunal agreed and issued an amended decision with additional details.

No Sure Thing

It seemed like a good bet. A woman with a gambling addiction figured the best way to keep from losing her money was to stay away from the casinos. However, she knew she didn't have the willpower to do it on her own and so she signed up for Manitoba Liquor and Lotteries (MLL) Voluntary Self-Exclusion (VSE) program.

The voluntary program removes club card incentives, advises of problem gambling support, and bans players from entering Club Regent, McPhillips Street Station, and the Shark Club. An enrolled individual selects irrevocable program terms and signs a contract and can end participation at the end of the self-exclusion period. At enrolment, the individual is photographed for enforcement purpose. The woman registered to self-exclude for the longest period available, a three-year term.

However, one year into her term she relapsed and was able to get into the casinos. In less than two weeks she lost \$10,000. She contacted MLL and told them about several personal and severe hardships caused by her gambling losses. She asked for the money back that she had lost playing VLTs, claiming MLL had failed to keep her out of the casinos as she believed was promised under the VSE. MLL directed her to several supports such as crisis and self-harm resources but indicated it would not refund her gambling losses. The woman filed a complaint with our office, claiming MLL had misled her as to the effectiveness of the VSE program.

MLL's security department is responsible for the detection and enforcement component of the program and rely on a number of tools. For example, a video loop of photos of VSE registrants is monitored on site by security staff and licence plate recognition systems are in place at two of the casinos. However, the enforcement measures are not 100 per cent reliable and MLL does not consider VSE to be a guarantee to exclude registrants from gaming premises. MLL believes that 20 to 25 per cent of VSE participants will try to return to gambling at some point during VSE enrollment.

Our office looked at MLL's communications concerning the VSE program, including its potential limitations. Administrative fairness requires that public bodies provide the public with clear communication about their programs and services.

Our review found a gap between MLL's message about the VSE program parameters and limitations, and what was understood by the participant. We found information about MLL's ability to enforce the VSE program was limited, provided only at the time of registration, and difficult to find online. We found clear language that MLL cannot guarantee enforcement was lacking in key places and it was reasonable for individuals to expect proactive prevention and enforcement by MLL. In our view, the public information may have led to different understandings and misalignment of expectations between the program and participants on MLL's inability to guarantee enforcement. We also noted that research shows that many people who register for programs like the VSE are in distress and may not fully understand the limitations. However, it is reasonable that participants expect proactive prevention and enforcement by MLL.

MLL accepted our recommendation to review and update their communications materials and strategies to ensure that VSE registrants understand the limitations of the program as it relates to detection and enforcement through plain language information that is readily accessible, current, and available.

Ombudsman Act Case Example #6

Province of Manitoba

Policy & Procedural Compliance

Supported

Recommendations Made

A Partisan Problem

Our office received a complaint that a Manitoba government news release went too far when it indicated support for the political position of a federal opposition party. The complainant believed the use of civil service resources to generate the release undermined the impartiality of the civil service.

Our office looked at whether the policies and procedures of Communication Services Manitoba (CSM) were followed in this case and whether the publication of the news release was contrary to established values and ethics for civil servants.

The only CSM policy and procedure document relevant to this investigation was an undated nine-page document written when CSM had a branch called News Media Service. It states, in part, that CSM has a duty to ensure its work is done with integrity and impartiality, respecting the overarching principle that government services should not be used for a political purpose.

In our view, by supporting a policy position of a federal opposition party, this release was not in keeping with the spirit of the government policy to maintain a non-partisan public service.

The circumstances of this matter also raised the question of whether the Director of Communications and Stakeholder Relations (a political staff member) gave appropriate instructions to the CSM news editor when the director drafted the release.

Manitoba's guidelines on ensuring a non-partisan civil service state that political staff should ensure any instructions to civil servants are consistent with the principle of civil service non-partisanship. Given the news release in this case was partisan in nature and because it supported the policy position of the federal opposition party, the director's instructions to the news editor to publish this release was not in keeping with the guidelines.

Our office made two recommendations both of which were accepted by the department:

- That Communications Services Manitoba establish written policy and procedure to guide news release content, including guidance about what news release language is considered partisan.
- That an annual reminder be provided to political staff about the importance of maintaining an impartial and unbiased civil service. In addition, political staff should be briefed and familiar with the Communication Services Manitoba written policy concerning news release content once it is complete.

CSM recently provided our office with a copy of a new policy on apolitical and non-partisan communications and engagement. This policy includes guidance about what news release content is considered non-partisan.



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 their 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 and chief justice 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.

2021-22 ACTIVITY

Inquests reports received by our office

Our office received three inquest reports into the following custodial deaths:

Richard Kakish

- The inquest into the death of Mr. Kakish examined the circumstances of his detainment by police, transfer to a provincial correctional centre, and delivery of healthcare services. The inquest resulted in eight recommendations. Our office began monitoring the implementation of these eight recommendations during the reporting period.

Lewis Sitar and William Saunders

- Mr. Sitar and Mr. Saunders both died while in custody of federal entities (federal corrections and RCMP respectively). There will be no final report from our office in these cases because the inquest reports did not include any recommendations to provincial entities. Comments and areas for improvement identified by the judges in these cases may be monitored under another jurisdiction.

Inquest monitoring

We monitored and tracked the status of recommendations from seven inquest deaths.

Inquests called

In this reporting period, we became aware of 23 inquests called by the chief medical examiner under the Fatality Inquiries Act. Hearings before a provincial court judge are yet to be completed with reports issued.

We began work to increase our capacity to conduct broader analysis of inquests to examine trends, and identify possible systemic issues that may warrant further investigation by our office in future reporting years.

More Inquest Information

More information about Manitoba inquests, reports, and our monitoring work is available on our [website](#).

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT

ABOUT PIDA

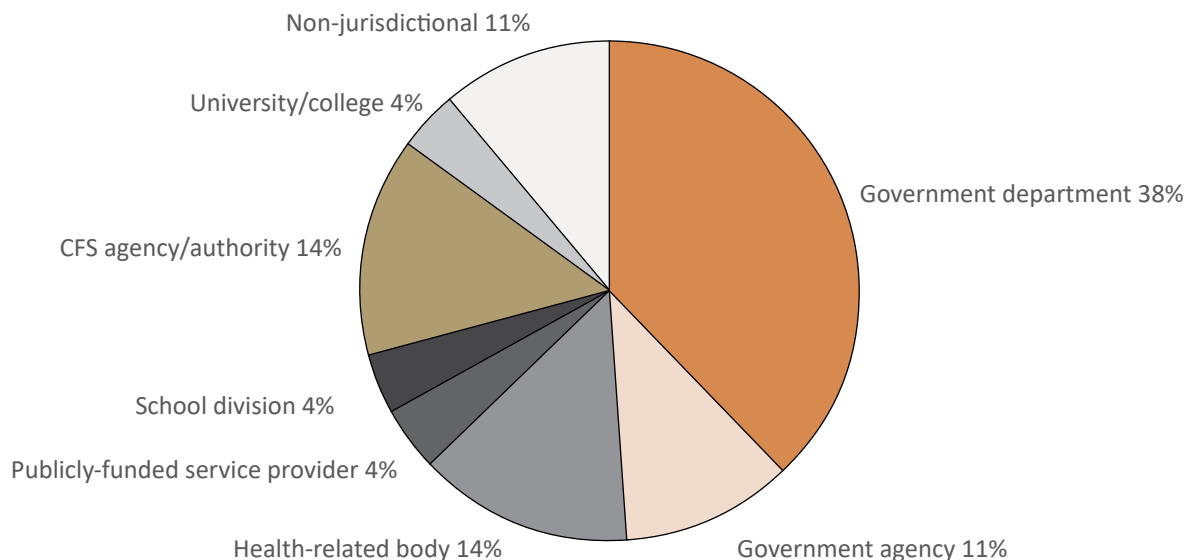
Under the Public Interest Disclosure (Whistleblower Protection) Act (PIDA), our office investigates disclosures of wrongdoing in or relating to the public service. A wrongdoing is a very serious act or omission that is an offence under another law, an act that creates a specific and substantial danger to life, health or safety of persons or the environment, gross mismanagement including the mismanagement of public funds or government assets, or knowingly directing or counseling a person to commit a wrongdoing.

The act also provides reprisal protection to those who seek advice or make a disclosure, or co-operate in an investigation under PIDA. Our office is responsible for receiving and investigating complaints of reprisal under PIDA.

Overview of 2021-22 PIDA Case Files

File type	Received 2021-22	Closed 2021-22
Disclosures of wrongdoing	25	40
Reprisal complaints	2	3
Procedure reviews (assistance requested by public body)	1	2
Procedure reviews (ombudsman requested)	0	1
Total	28	46

Distribution of PIDA inquiries in 2021-22 by type of public body



Jurisdiction of PIDA

Our jurisdiction under PIDA includes the following public bodies:

- Departments
- Other government bodies
- Independent offices of the Manitoba Legislative Assembly
- School divisions
- City of Winnipeg and City of Brandon
- Publicly funded organizations that provide support services, residential care, rental housing units, or licensed childcare

Inquiries about PIDA in 2021-22

22

Contacting our office

We encourage individuals to [contact our office](#) before submitting a PIDA disclosure. There is often more than one avenue to report concerns and our intake staff will help to determine whether PIDA is the most appropriate process and, if not, we will provide advice and alternate options if applicable. If the matter presented is a wrongdoing as defined by the act, we will review the disclosure process and discuss reprisal protections for employees of public bodies.



Speak up. We're listening.

whistleblower protection

Manitoba's Public Interest Disclosure (Whistleblower Protection) Act or PIDA provides a process for the safe disclosure of information about potential wrongdoing in public bodies.



WRONGDOING

A wrongdoing is a significant and serious matter that includes:

- an action that is an offence under another law
- knowingly directing or counselling a person to commit a wrongdoing
- gross mismanagement, including of public funds or assets, or
- an action that creates a specific and substantial danger to the life, health or safety of persons or the environment



REPRISAL

Who can make a complaint about reprisal?

- Public body employees who make a disclosure, seek advice or participate in a PIDA investigation are protected from reprisal. An employee who believes reprisal has occurred may make a complaint to us.



PUBLIC BODIES

Public bodies include:

- provincial government departments, agencies, boards, commissions and Crown corporations
- health authorities and health-care bodies*
- child and family services agencies and authorities
- school divisions, colleges and universities
- some municipalities*
- other organizations* that receive at least 50% of their funding from government
- independent offices of the legislative assembly

*Identified in the PIDA regulation. Contact us if you are unsure if your employer is a public body.



DISCLOSURES

Who can make a disclosure?

- A public body employee who believes they have information about a wrongdoing or reprisal can make a disclosure to their supervisor, the designated officer in their organization or to us.
- Anyone else who is not an employee may also contact us to provide information about a wrongdoing.

Manitoba Ombudsman receives and acts on disclosures of wrongdoing. If you believe a wrongdoing or reprisal has occurred, please contact us for advice or to make a disclosure. We will treat your concern with confidentiality. Protecting the identity of disclosers is required by law.

www.ombudsman.mb.ca • 1-800-665-0531 • ombudsman@ombudsman.mb.ca

Fostering accountability and integrity within government



GROWING AWARENESS AND CAPACITY

Whistleblower Awareness Day

Together with other public interest disclosure and integrity commissioners across Canada, we recognized our first Whistleblower Awareness Day on March 24, 2021.

It is important to have a day that raises awareness of PIDA and highlights the vital role whistleblowers play to maintain accountability and integrity in the public service. The act outlines a process to bring forward concerns and provides protection to employees who do so.

Employees are best positioned to identify potential wrongdoing. Hearing and assessing employee concerns demonstrates that disclosures will be taken seriously and responded to, even if the concerns are redirected to a more appropriate process.

Working with public bodies

We worked closely with two provincial departments to increase awareness about PIDA and develop capacity within the public body to manage disclosures, ensure procedural fairness and confidentiality of investigations, and report outcomes. Proactive outreach and ombudsman initiated reviews help ensure good PIDA practices and increase accountability and trust within organizations.

The act also gives PIDA designated officers the authority to consult with our office regarding the management of an investigation. We received four inquiries from PIDA designated officers in which we provided information about their role and advice on disclosure handling.

PIDA Designated Officers

All public bodies (with few exceptions) are required to have a PIDA designated officer to give advice and to receive and deal with disclosures made by the employees of that public body. Employees of other public bodies may report through an internal process involving their PIDA designated officer or an external process involving our office.

Annual Communication Required

PIDA requires all public bodies to communicate annually with their employees about PIDA and the disclosure procedures. Our office fulfills our own obligation with an annual presentation to all staff by our PIDA team, including information about how PIDA applies to our office and the internal and external process with the Auditor General carrying out the oversight responsibilities.

DISCLOSURES OF WRONGDOING

Our office may receive disclosures from employees in any public body and from non-employees (contractors and the public) who believe they have information about a wrongdoing.

Assessment of disclosures of wrongdoing

We assess each disclosure to determine:

- if an allegation meets the definition of wrongdoing;
- if there is enough information to support the allegation at face value; and
- if PIDA is the most appropriate process to have the matter investigated.

Our assessment may result in a decision to investigate or a decision to decline for various reasons, including:

- The matter does not meet the threshold for wrongdoing.
- The matter is not significant and serious and therefore the allegation does not meet the definition of wrongdoing.
- The disclosure relates to a matter more appropriately dealt with according to a procedure under another act.
- The disclosure relates to employment matters more appropriately handled through a human resources process.

Disclosures of wrongdoing in 2021-22

25

Assessment of a disclosure from a non-employee

We were copied on anonymous correspondence addressed to a government agency and then subsequently received the same anonymous disclosure addressed to our office. It was clear in the correspondence to the ombudsman that the discloser perceived that the agency had not addressed the concern. As the disclosure was made anonymously, we were unable to obtain clarifying information from the source or provide them an opportunity to respond to the department's position that the allegations were unsubstantiated.

We contacted the government agency's PIDA designated officer to discuss the content of the allegations regarding conflict of interest and unethical conduct, knowing they also received the allegations. The government agency advised us that they have received the same allegations multiple times. They had reviewed internal files and provided our office with a summary of the actions taken and supporting evidence to suggest the allegations were unsubstantiated.

Regarding Anonymous Disclosures

PIDA does not require disclosers to identify themselves. As long as there is sufficient information to establish the submission as a disclosure and a potential wrongdoing has occurred (or is occurring), an anonymous disclosure will be taken seriously. However, when disclosures are made anonymously, we are unable to seek clarifying information and our assessment becomes limited to the information provided.

The following details, if known, should make up the content of any disclosure:

- A description of the wrongdoing
- The name of the person alleged to have committed (or be about to commit) the wrongdoing
- The date of the wrongdoing
- Whether the information has already been disclosed and the response received

Before making a disclosure anonymously, consider the following:

- Seek advice from our office. We are independent and will maintain confidentiality. Seeking advice provides an opportunity to inquire whether the concerns fit with PIDA or there is another more appropriate process to have the matter raised.
- Include your name and contact information. This will be used to provide:
 - Acknowledgment that the submission was received
 - An opportunity to answer questions and provide clarifying information
 - To have your concerns heard and to receive advice, including other possible reporting processes available such as code of conduct, grievance, or other external investigative agencies
 - Our decision with rationale, including whether the provisions of PIDA apply
 - Updates on the status of the file
 - The outcome, if the allegations are investigated
 - A confidential opportunity to discuss risks of reprisal and receive information on reprisal protection

We find that most people will provide their name and contact information once they have had a chance to understand the discretion and confidentiality of our process.

**PIDA Assessment
Example #2**

Assessment of a disclosure from an employee of a government body

Our office received a disclosure from an employee of a government body alleging the executive director made unlawful comments to staff regarding staff's vaccination status. The disclosure raised concerns with the public body's implementation of its Covid-19 vaccination policy.

Upon review, the comments were not unlawful nor serious or significant enough to rise to a level that would engage PIDA and we declined to investigate the allegation. The employee had personal concerns with the employer's Covid-19 vaccination policy and we advised this concern was best addressed by their union or human resources department.

**PIDA Assessment
Example #3**

Notification to public body of a disclosure received and request for information

Our office received a complaint from a former employee of a government agency about psychological health and physical safety within the agency. Through our communication, additional allegations were made that the agency was reporting false client numbers to the government, allowing crucial front-line positions to remain intentionally vacant, and not delivering on its legislated mandate. We assessed these new allegations under PIDA.

Upon review we were unable to obtain sufficient information to support an investigation into wrongdoing but we did consider it important to forward the allegations to the chief executive and the chair of the board of governors. Leadership has responsibility for the efficient, effective management of operations. The referral provides the organization the opportunity to review administrative processes in the interest of transparency and good governance.

Wrongdoing investigations

Where our assessments determine the disclosure meets the initial threshold of the legislated definition of wrongdoing, we initiate investigations. We launched two new investigations into disclosures of wrongdoing and discontinued one investigation.

**PIDA
Case summary**

**Wrongdoing
investigation
discontinued**

A public body forwarded a disclosure from a non-employee alleging staff interfered with a contract causing delays in a project. The disclosure also alleged a senior staff member directed firms not to accept work related to the project. The disclosure included another allegation that the information they provided to the public body was not acted on or investigated when it was submitted.

Initially, the public body hired a workplace investigations firm to conduct a PIDA investigation of the allegations. The public body forwarded the disclosure to our office. The external investigation was not completed and the public body forwarded the matter to our office.

After our initial review of the submission, our office declined to investigate the first allegation about interference as the events involved errors, delays, accidents, or unforeseen circumstances rather than deliberate attempts to delay the project. In addition, the contract between the public body and discloser contemplated these circumstances and included a mechanism for their resolution. The discloser had also commenced a legal proceeding seeking compensation for the events.

Our office investigated the second allegation that a senior staff member directed firms not to accept work related to the project. The allegation was investigated as possible gross mismanagement as defined under PIDA. We reviewed correspondence as well as documentation related to the project and conducted interviews. We exercised our discretion to discontinue the investigation based on our inability to corroborate the allegation. In addition, the allegation was to be reviewed through a legal proceeding. We concluded it was not in the public interest to continue to invest resources into a parallel process under PIDA. We notified the discloser and the government agency of the reasons for our decision to discontinue.

However, in our investigation we identified concerns regarding the internal handling of the disclosure by the public body and opened an ombudsman own initiated investigation under the Ombudsman Act to review the public body's administrative policies, processes and compliance with legislative requirements established under PIDA.

REPRISAL COMPLAINTS

Under PIDA, employees are protected from reprisal for seeking advice, making a disclosure or cooperating in an investigation into alleged wrongdoing(s). Reprisal means any measure taken against an employee such as a disciplinary measure, a demotion, termination, or any measure that adversely affects employment or working conditions, including making threats to do so.

Reprisal complaints in 2021-22

2

All employees should feel safe to bring forward concerns and provide information when called upon during an investigation. An employee who believes that a reprisal has been taken against them because of their involvement under PIDA may submit their complaint to our office.

A wrongdoing investigation protects the identity of the employee who comes forward with their concerns, whereas a reprisal investigation will directly affect and identify the complainant. Before launching an investigation, we listen to the employee's concerns and discuss how to manage communication in their workplace to help safeguard their confidentiality as much as possible through the process. We may discuss other ways they can protect themselves.

Reprisal is avoided when employers focus on the concerns brought forward under PIDA and not on identifying the source.

PIDA Reprisal Case summary Reprisal complaint withdrawn

We initiated one investigation into a reprisal complaint because there was sufficient evidence to confirm that actions may have been linked to employee's participation under PIDA. The complainant was concerned that the investigation would identify their involvement under PIDA and would raise further issues in the workplace. They formally withdrew the complaint.

For more detailed information about PIDA disclosures and reprisal complaints, please see the table on page 54.

OMBUDSMAN'S OBLIGATION TO REPORT ABOUT DISCLOSURES

As a public body under PIDA, our office is required to report any disclosures of wrongdoing that have been made internally. We did not receive any disclosures in 2021-22.

Number of disclosures received	0
• acted on	N/A
• not acted on	N/A
Number of investigations commenced as a result of a disclosure	N/A

OFFICE OPERATIONS

2020-21 Office Budget (numbers reported in thousands)

	Budget	Actual
Total salaries and employee benefits	\$3,392.0	\$2996.5
Other expenditures	\$674.0	\$608.2
Total	\$4,066.0	\$3,604.7

CORPORATE INITIATIVES

Business Transformation

The 2021-2025 Operational Service Plan is a tactical plan of transformation for Manitoba Ombudsman. Its purpose is to provide our team with a shared vision of how our work and culture can contribute to better organizational outcomes and identifies specific activities and projects designed to improve our operations. Our priorities seek to elevate citizen-centered service delivery, operational excellence, organizational effectiveness, and efficient information management and supports sustainable change with structured accountability, people readiness, and communication.

We are taking a managed, incremental approach that matches our organizational ability to launch new projects, initiatives, and discussions.

Objectives that were achieved in the first year of the plan include the following:

Priority 1: Citizen-Centered Organization

- Researched and designed an operational service model that supports our organizational mandate and represents values outlined in the Public Service Act.
- Developed service milestones standards that are reasonable and achievable and built them into systems that support workflow.

Priority 2: Operational Excellence

- Assessed our remote work experience to develop recommendations for a future hybrid work model for employees.
- Completed corporate functional space and program reviews and employee consultations to determine the future workspace needs for our head office in Winnipeg.

Figure: The Manitoba Ombudsman Transformation Framework



Priority 3: Organizational Effectiveness

- Organizational assessment and plan for the long-term human resources strategy for Manitoba Ombudsman.
- Leadership development and training on change leadership, accountability, and human resource management.
- Created project teams to support large scale initiatives such as preparing for an expanded mandate and redesign of complaint handling.

Priority 4: Efficient Information Management

- Assessed requirements and reprogrammed our complaint management system to support better service delivery, more accountability and reporting, and efficiency in processes.
- Moved to an integrated database to enable consistent file and document management.

Organizational Design

We also continued with the organizational design review that we began in 2019 to find our best approach to address the growing demands for service activities under our mandates. As part of our review, we applied the perspective of the citizen to consider how a redesigned structure could better assist individuals who contact our offices and serve the broader public interest. This foundational work will guide the redesign of our organizational structure and support the evolution of our teams and the work we do.

French Language Service Plan Renewal

The corporate services team is responsible for French language service (FLS) planning and reporting. Our formal policy and procedure for FLS was fully revised in 2021. This multi-year strategic FLS plan extends until 2024. We report on progress annually to the Legislative Management Commission and to the FLS Secretariat.

Accessibility for Manitobans

To fulfill the legislated responsibilities within the Accessibility for Manitobans Act, we established our Accessibility Plan for 2021–22. Within the scope of this plan, we specifically addressed barriers that are problematic and limiting for citizens and employees. Our plan focuses on service enhancements to identify, remove and prevent barriers faced by persons with disabilities. Our plan also requires employee training to support the service experience and seeks accessibility options for future headquarter and satellite office spaces.

STAFF

Manitoba Ombudsman is organized by mandate and function – Intake, Access and Privacy matters, Ombudsman matters, and PIDA matters. All areas are supported by Corporate Services and Business Transformation teams. Thank you to all current and departed staff who contributed to the work of the office in this reporting period.

Winnipeg Office

Jacqueline Bilodeau, **Manager, Access & Privacy Investigations**
Shannon Bunkowsky, **Business Transformation Specialist**
Christian Christodoulides, **Intern & Policy Analyst**
Angie Cleutinx, **Administrative Support Clerk**
Patti Cox, **Investigator**
Judy Dandurand, **Manager, Systemic Investigations & Audits**
Lourdes De Andrade, **Manager, Administration**
Benjamin Doiron, **Investigator**
Kristen Fogg, **Investigator**
Leanne Fraser, **Complaints Analyst**
Meghan Gallant, **Senior Investigator**
Laurie Gordon, **Investigator**
Rachel Gotthilf, **Investigator**
Cindy Holloway, **Manager, Community Relations & Corporate Services**
Cydney Keith, **Investigator**
Annalicia Kiely, **Administrative Support Assistant**
David Kuxhaus, **Manager, Ombudsman Act Investigations**
Marie Langton, **Investigator**
Justine Lapointe, **Investigator**
Heather Lessard, **Intake Manager**
Mary Loepp, **Investigator**
Nancy Love, **Deputy Ombudsman, Access & Privacy Division (retired)**
Krystan McCaig, **Investigator**
Alyson McFetridge, **Investigator**
Maggie Nighswander, **Investigator**
Noushin Nawer, **Intern**
Robyn Osmond, **Investigator**
Maria Palattao, **Administrative Support Clerk**
Shelley Penziwol, **Communications, Education & Training Coordinator**
Jill Perron, **Ombudsman**
Lori Roberts, **Manager, Public Interest Disclosure Investigations**
Jackie Sedor, **Investigator (retired)**
Josh Tallman, **Investigator**
Dayna Van Caeyzeele, **Investigator**
Chris Watson, **Investigator**
Linda White, **Investigator (retired)**

Brandon Office

Chris Baker, **Investigator**
Karen Bertrand, **Admin Support Clerk (retired)**
Wanda Bryant, **Investigator**
Andrea Grynol, **Investigator**

Thompson Office

Ila Miles, **Administrative Support Clerk**
Milan Patel, **Intake Officer (MACY/MO)**

DETAILED STATISTICS

FIPPA INVESTIGATIONS OF INDIVIDUAL COMPLAINTS (UNDER PART 5)

	Case Numbers			Case Outcome							
	Carried over into 2021-22	New cases in 2021-22	Total cases in 2021-22	Pending at 3/31/2022	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	Recommendations
Provincial government											
Advanced Education, Skills & Immigration	-	1	1	-	-	-	-	-	-	1	-
Agriculture	3	2	5	1	-	-	1	3	-	-	-
Economic Development, Investment & Trade	3	2	5	3	-	-	1	1	-	-	-
Education and Early Childhood Learning	1	3	4	2	-	-	-	-	-	2	-
Environment, Climate & Parks	4	8	12	4	1	1	3	-	2	1	-
Executive Council	24	17	41	13	-	5	2	-	2	1	18
Families	12	19	31	12	-	-	4	3	9	3	-
Finance	22	21	43	16	-	1	7	-	11	2	6
Health	2	8	10	8	-	-	2	-	-	-	-
Indigenous Reconciliation & Northern Relations	3	1	4	1	-	1	-	1	-	1	-
Intergovernmental Affairs	1	-	1	-	-	1	-	-	-	-	-
Justice	11	21	32	18	-	4	6	1	2	1	-
Labour, Consumer Protection & Gov't Services	7	4	11	3	-	-	-	-	5	3	-
Municipal Relations	2	1	3	-	-	1	1	-	1	-	-
Public Service Commission	6	2	8	2	-	-	3	1	-	2	-
Transportation and Infrastructure	6	5	11	2	-	1	-	1	3	-	4
Government agency											
CFS Agency/Authority	3	5	8	2	-	3	2	-	1	-	-
Manitoba Housing & Renewal Corporation	-	3	3	-	-	1	1	-	-	1	-
Manitoba Hydro	7	12	19	13	-	1	2	-	1	2	-
Manitoba Liquor & Lotteries	-	2	2	2	-	-	-	-	-	-	-
Manitoba Public Insurance	-	8	8	2	-	-	4	-	1	1	-
Tax Appeals Commission	1	-	1	1	-	-	-	-	-	-	-

Complaint outcomes in the tables on pages 50-52:

Pending: Complaint still under investigation as of March 31, 2022.

Declined: Determined an investigation is not needed.

Discontinued: Investigation stopped by ombudsman or citizen.

Not supported: Complaint not supported at all.

Partly supported: Public body decision was partly compliant with FIPPA.

Supported: Complaint fully supported. Public body decision was not compliant with FIPPA.

Recommendations: All or part of complaint supported and recommendation(s) made.

FIPPA INVESTIGATIONS OF INDIVIDUAL COMPLAINTS (UNDER PART 5)

	Case Numbers			Case Outcome							
	Carried over into 2021-22	New cases in 2021-22	Total cases in 2021-22	Pending at 3/31/2022	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	Recommendations
Government agency continued											
Travel Manitoba	1	1	2	-	-	-	1	-	-	1	-
Workers Compensation Board	2	-	2	1	-	-	-	1	-	-	-
Local government body											
City of Brandon	-	3	3	1	-	-	2	-	-	-	-
City of Morden	-	1	1	1	-	-	-	-	-	-	-
City of Selkirk	-	1	1	-	-	-	-	-	-	1	-
City of Winnipeg	19	22	41	18	-	3	15	2	-	2	1
Red River Planning District	1	1	2	-	-	-	-	1	1	-	-
RM of Alexander	-	1	1	1	-	-	-	-	-	-	-
RM of Gimli	2	-	2	2	-	-	-	-	-	-	-
RM of Kelsey	1	-	1	1	-	-	-	-	-	-	-
RM of Lac du Bonnet	3	1	4	2	-	-	1	-	1	-	-
RM of Springfield	1	3	4	1	-	-	2	-	-	1	-
RM of St. Andrews	-	4	4	2	-	-	-	-	1	1	-
RM of Swan Valley West	-	11	11	2	-	-	-	-	8	1	-
RM of Victoria Beach	-	1	1	-	-	-	-	-	-	1	-
RM of West St. Paul	-	5	5	4	-	-	-	-	1	-	-
Town of Winnipeg Beach	1	1	2	2	-	-	-	-	-	-	-
Western Interlake Planning District	1	-	1	-	-	-	-	-	-	1	-
Educational body											
Assiniboine Community College	3	1	4	2	-	-	2	-	-	-	-
Brandon School Division	1	-	1	-	-	-	1	-	-	-	-
Louis Riel School Division	-	2	2	2	-	-	-	-	-	-	-
Red River College	1	-	1	-	-	-	1	-	-	-	-
University of Manitoba	4	7	11	3	1	-	4	3	-	-	-
University of Winnipeg	1	1	2	-	-	-	1	1	-	-	-
Winnipeg School Division	2	1	3	1	-	-	1	1	-	-	-
Health-care body											
CancerCare Manitoba	2	1	3	2	-	-	1	-	-	-	-
Interlake-Eastern Regional Health Authority	2	4	6	-	-	-	2	-	3	1	-
Northern Regional Health Authority	1	1	2	-	-	-	-	-	2	-	-
Prairie Mountain Health	2	2	4	-	-	-	2	-	2	-	-
Shared Health Inc.	9	24	33	17	-	2	10	-	-	4	-
Southern Health-Santé Sud	-	3	3	1	-	1	-	-	1	-	-
Winnipeg Regional Health Authority	1	3	4	1	-	-	-	-	3	-	-
TOTAL											
	179	251	430	172	2	26	85	20	61	35	29

PHIA INVESTIGATIONS OF INDIVIDUAL COMPLAINTS (UNDER PART 5)

	Case Numbers			Case Outcome							
	Carried over into 2021-22	New cases in 2021-22	Total cases in 2021-22	Pending at 3/31/2022	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	Recommendations
Provincial government											
Families	4	3	7	2	-	-	-	-	5	-	-
Finance	-	1	1	-	-	-	-	-	1	-	-
Justice	1	1	2	2	-	-	-	-	-	-	-
Government agency											
CFS Agency/Authority	-	1	1	1	-	-	-	-	-	-	-
Manitoba Hydro	-	1	1	1	-	-	-	-	-	-	-
Manitoba Public Insurance	-	2	2	2	-	-	-	-	-	-	-
Workers Compensation Board	2	2	4	1	-	-	2	-	1	-	-
Educational body											
Pembina Trails School Division	-	1	1	1	-	-	-	-	-	-	-
St. James Assiniboia School Division	-	1	1	1	-	-	-	-	-	-	-
Health-care body											
Access River East	-	1	1	1	-	-	-	-	-	-	-
Boundary Trails Health Centre	-	1	1	-	-	-	-	-	-	1	-
Brandon Regional Health Authority	1	-	1	-	-	-	1	-	-	-	-
CancerCare Manitoba	-	1	1	-	-	1	-	-	-	-	-
Deer Lodge Centre	-	1	1	-	-	1	-	-	-	-	-
Health Sciences Centre	2	2	4	-	-	1	2	-	-	1	-
Interlake-Eastern Regional Health Authority	-	1	1	-	-	-	1	-	-	-	-
Laboratory	-	1	1	-	-	-	1	-	-	-	-
Medical Clinic	-	7	7	1	-	1	2	-	1	2	-
Northern Regional Health Authority	1	-	1	1	-	-	-	-	-	-	-
Personal Care Home	2	-	2	-	-	1	-	-	-	1	-
Portage La Prairie General Hospital	-	1	1	-	-	-	-	-	-	1	-
Prairie Mountain Health	1	-	1	-	-	-	1	-	-	-	-
Selkirk General Hospital	-	1	1	-	-	-	-	-	-	1	-
Shared Health Inc.	1	4	5	4	-	-	-	-	1	-	-
Southern Health-Santé Sud	2	-	2	2	-	-	-	-	-	-	-
St. Boniface Hospital	-	2	2	-	-	-	2	-	-	-	-
Victoria General Hospital	-	5	5	-	-	3	2	-	-	-	-
Winnipeg Regional Health Authority	1	-	1	-	-	-	-	-	-	1	-
Health professional											
Occupational therapist	1	-	1	-	-	-	-	-	-	1	-
Pharmacist	1	-	1	1	-	-	-	-	-	-	-
Physician	2	2	4	2	-	-	2	-	-	-	-
Psychologist		4	4	-	-	-	3	-	-	1	-
TOTAL											
	22	47	69	23	0	8	19	0	9	10	0

OMBUDSMAN ACT INVESTIGATIONS

	Case Numbers			Case Outcome							
	Carried over into 2021-22	New cases in 2021-22	Total cases in 2021-22	Pending at 3/31/2022	Case resolved early/ assistance provided	Declined or discontinued	Not supported	Resolved	Partly supported or supported	Administrative suggestions made	Recommendations
Manitoba government departments											
Agriculture	1	3	4	1	1	1	-	-	1	-	1
Economic Development, Investment & Trade	1	-	1	1	-	-	-	-	-	-	-
Environment, Climate & Parks	6	2	8	3	-	-	1	2	-	-	-
Families	3	-	3	3	-	-	-	-	-	-	-
Finance	4	-	4	1	-	-	-	1	3	-	2
Health	3	-	3	1	-	-	-	1	1	-	1
Justice	2	4	6	5	1	-	-	-	-	-	-
Labour, Consumer Protection & Government Services	1	-	1	1	-	-	-	-	-	-	-
Public Service Commission	1	-	1	-	-	1	-	-	-	-	-
Other Manitoba government bodies											
Liquor, Gaming & Cannabis Authority	3	-	3	1	-	1	-	-	-	2	1
Manitoba Hydro	2	-	2	1	-	-	1	-	-	1	-
Manitoba Public Insurance	2	5	7	6	-	-	-	-	1	-	-
Public Utilities Board	1	-	1	-	-	-	-	-	1	-	1
Workers Compensation Board	-	3	3	1	-	2	-	-	-	1	-
Municipalities											
City of Brandon	-	1	1	1	-	-	-	-	-	-	-
City of Winnipeg	11	5	16	6	-	2	4	-	4	6	1
Other Rural Municipalities, Towns, Villages	41	9	50	25	5	2	4	3	10	3	9
TOTAL											
	82	32	114	57	7	9	10	7	21	13	16
<p>Pending: Complaint still under investigation as of March 31, 2022.</p> <p>Case resolved early / assistance provided: Case resolved before proceeding through a full formal investigation process. Complainant provided with other assistance to resolve their matter.</p> <p>Declined or discontinued: Investigation stopped because complaint was withdrawn or it did not fall under Manitoba Ombudsman jurisdiction or due to the existence of other avenues of appeal or resolution.</p> <p>Not Supported: Complaint not supported at all.</p> <p>Resolved: Complaint was resolved through investigation.</p> <p>Partly Supported or Supported: Investigation found administrative issues that needed to be addressed.</p>											

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT CASES

		Assistance provided	PIDA case files carried over into 2021-22	New PIDA case files opened in 2021-22	Total PIDA case files pending at 3/31/2022	Declined investigation	Investigation stopped	Referred to designated officer	Investigation completed – no wrongdoing	Procedure review completed	Recommendations made in 2021-22	Recommendation followed-up in 2021-22	
Government department			16	11	10	16	1	-	-	-	-	-	
Government bodies	Government agency		3	3	1	5	-	-	-	-	-	-	
	Child and family services agency		5	3	2	5	-	-	-	1	-	-	
	Child and family services authority		1	1	-	1	-	-	-	1	-	-	
	School division		4	1	2	2	-	-	-	1	-	-	
	By regulation	Municipality		-	-	-	-	-	-	-	-	-	-
		Publicly funded service provider		1	1	1	1	-	-	-	-	-	-
		Health related body		-	4	-	4	-	-	-	-	-	-
		University/college		2	1	-	3	-	-	-	-	-	-
		Other		1	-	-	1	-	-	-	-	-	-
Office			1	-	-	1	-	-	-	-	-	-	
Non-jurisdictional			1	3	-	4	-	-	-	-	-	-	
TOTAL		22	35*	28	17	42	1	-	-	3	-	4	

*This number was incorrectly reported as 33 at the end of 2020 (2020 Annual Report)

Assistance provided: Assistance or information supplied to public body or to individual regarding PIDA matters.

PIDA case files carried over into 2021-22: Case files that were unresolved at the end of the previous reporting period.

New PIDA case files opened in 2021-22: A written disclosure or complaint of reprisal is received. Case files include public body PIDA procedure reviews by request from the ombudsman, and by request for assistance from the public body.

Total PIDA case files pending at March 31, 2021-22: PIDA case files unresolved in 2021-22 and carried over into 2022-23. 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 and declined because the matter was not under the ombudsman's jurisdiction or 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.

Investigation stopped: Investigation of disclosure stopped when deemed no longer warranted based on findings.

Referred to designated officer: Disclosures may be referred to the designated officer of the public body subject to the allegations for internal handling under PIDA, when deemed appropriate by the ombudsman.

Investigation completed – no wrongdoing: 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 or not wrongdoing was found.

Recommendation followed-up in 2021-22: Monitoring the completion of a public body's commitment to our recommendations has concluded. Completion of monitoring can be for recommendations made in the previous year.