

# Manitoba Ombudsman

## REPORT UNDER

### *THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT*

CASE 2013-0350

#### MANITOBA PUBLIC INSURANCE

#### ACCESS COMPLAINT: REFUSAL OF ACCESS

PROVISIONS CONSIDERED: 9, 12(1)(c)(i)

REPORT ISSUED ON APRIL 2, 2014

#### SUMMARY:

**The complainant had requested access to his personal information at Manitoba Public Insurance (MPI) related to his applications for a Manitoba driver's licence. MPI provided access to three pages of information in full that were responsive to the complainant's request, but refused access to any further records on the basis that records did not exist. Our office found that MPI had undertaken all reasonable efforts to assist the complainant and to search for the requested records.**

#### THE COMPLAINT

The complainant requested access to the following records under *The Freedom of Information and Protection of Privacy Act* (FIPPA) on July 31, 2013:

*"My personal information at MPI/Dept responsible for issue of Driver Licence..."*

Manitoba Public Insurance (MPI or public body) responded to the complainant on August 29, 2013, providing full access to three pages of information, but refusing access to any further records on the basis that the records did not exist. Our office received the refused access complaint on October 21, 2013. The complainant believed that additional records existed regarding driver's licence road tests (road tests) he alleged he had taken but for which records had not been provided. He also believed that MPI may have received some information from a third party which relates to him.

#### BACKGROUND

Our office sent a letter to Manitoba Public Insurance on October 30, 2013, wherein we asked for a written explanation as to the search MPI conducted in an effort to locate the responsive records and how it determined that the records in question did not exist.

Additionally, we requested copies of all relevant supporting documentation that formed the basis for the public body's decision to refuse access in part. MPI responded to our queries in a letter dated November 18, 2013, which satisfied our questions and provided the documentation we had requested.

Our office contacted the complainant on November 21, 2013, to determine if there was any additional information he may have to support his claim that MPI should have further records regarding the driver's licence road tests (road tests) he alleged he had taken. We asked the complainant if he had any receipts, documents, or paperwork of any kind that would provide evidence that he had applied for/and or paid for a road test. Additionally, we asked him to advise which MPI driver's testing location he had attended to pay for and take the road tests.

The complainant advised that he had moved a number of times and would likely not have kept the paperwork or receipts we had asked about. He also indicated that he was unsure as to which MPI testing location he had attended to take the driver's licencing road tests, but believed that it was located just off Sherbrook Avenue. The complainant advised that he would search for any further receipts or paperwork he may have and would provide a copy to our office should he locate anything.

We contacted the complainant on December 30, 2013, to determine if he had located any further documentation or receipts to support his claim. The complainant advised that he had not located any additional information. He also stated that he had not been able to determine which MPI testing location he had attended for the road tests, but indicated that he would contact his driving school instructor and would advise our office of any outcome. Our office did not receive any further information from the complainant.

## **POSITION OF MANITOBA PUBLIC INSURANCE**

Manitoba Public Insurance advised that upon receiving a request for access to personal information from the complainant on July 31, 2013, it consulted with the complainant and determined that he was seeking access to records regarding his applications for a Manitoba driver's licence.

MPI contacted the Driver Licensing department "*to determine the existence of records relating to the several driver's licence road tests...*" which the complainant claimed to have taken. "*His customer history on the MPI Insurance Work Station ("IWS") database – which includes all transactions conducted in relation to driver licencing, vehicle registrations, and insurance for a particular individual – was reviewed. Historical microfiche records (for years 2002 to 2006, which predated IWS were also reviewed. The customer history and historical microfiche reviews indicated that (name removed) had not paid for any driver's licence tests (road or written) since obtaining his Manitoba driver's licence on May 30, 2002.*"

Based on these searches, Manitoba Public Insurance granted access to three pages of information responsive to this request, which included Applications for Driver's Licence Certificates dated May 30, 2002 and May 5, 2004. MPI also confirmed that it had no record of the complainant "*registering for, or providing payment for, a driver's licence road test*" and therefore was denied access to any further records pursuant to subclause 12(1)(c)(i) of FIPPA, on the basis that the records do not exist as follows:

***Contents of response***

*12(1) In a response under section 11, the head of the public body shall inform the applicant*

*(a) whether access to the record or part of the record is granted or refused;*

*(b) if access to the record or part of the record is granted, where, when and how access will be given; and*

*(c) if access to the record or part of the record is refused,*

*(i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located,*

Additionally, to determine if any records concerning the complainant had been received from a third party, MPI made further internal enquiries with the MPI Special Investigations Unit, Driver Improvement and Control and the Medical Compliance and Assessments departments. MPI advised that it had “*determined that no records of this nature have ever been received by MPI from any outside source*” and therefore as the records do not exist, access was denied pursuant to subclause 12(1)(c)(i) of FIPPA.

**ANALYSIS OF ISSUES AND FINDINGS****Did Manitoba Public Insurance comply with its duty to assist the applicant and did it conduct a reasonable search for the requested records?**

FIPPA requires that a public body make every reasonable effort to assist an applicant:

***Duty to assist applicant***

*9 The head of a public body shall make every reasonable effort to assist an applicant and to respond without delay, openly, accurately and completely.*

In responding to an access request, a public body is required to conduct reasonable searches for records in its custody or control. It must also respond accurately, completely and without delay.

During the course of our investigation, we asked the public body about the search it conducted for the records responsive to the complainant’s access request. MPI advised that upon receiving the access request, the MPI privacy and information officer contacted the complainant to clarify the scope of his request and to ask for additional information. Manitoba Public Insurance also advised that it spoke with the complainant on August 2, 2013, wherein the complainant “*reiterated the information he had provided in his Application.*” Additionally, MPI advised that the complainant “*did not provide any additional information related to the road tests mentioned in his request.*”

Subsequent to this conversation with the complainant, MPI advised that it had conducted extensive searches for records, in various internal departments, to determine if there were any records responsive to this request. MPI outlined that during its search for responsive records, the MPI Insurance Work Station database and historical microfiche records were reviewed to determine if the requested records existed.

Additionally, MPI provided access to three pages of information but determined that it did not have any further records relating to this request in its possession. Our office is satisfied that MPI looked in all places and databases wherein these types of records are maintained.

Our office determined that Manitoba Public Insurance conducted reasonable searches for the requested information and complied with its duty to assist the applicant under section 9 of FIPPA. Our office found that MPI's decision to refuse access on the basis that the records did not exist was in accordance with FIPPA.

## **CONCLUSION**

Based on our findings, the complaint is not supported.

In accordance with subsection 67(3) of *The Freedom of Information and Protection of Privacy Act*, the applicant may file an appeal of MPI's decision to refuse access to the Court of Queen's Bench within 30 days of receiving this report.

April 2, 2014  
Manitoba Ombudsman