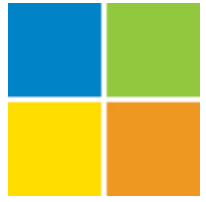


Manitoba Ombudsman

Information for Correctional Officers



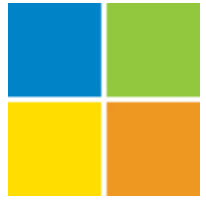
The Ombudsman in Manitoba

- The ombudsman is an independent officer of the Legislative Assembly of Manitoba who acts in an impartial and non-partisan manner. Other independent officers include, for example, the auditor general, advocate for children and youth and the chief electoral officer.
- The ombudsman role was established in 1970 to give the public the right to an independent review of decisions and actions of government bodies. The office's mandate has expanded since then.
- The ombudsman has broad powers of investigation, the ability to recommend corrective action and to report publicly.

Ombudsman is a Swedish word, and is often translated as "citizen's representative" or "representative of the people." Sweden established the first independent parliamentary ombudsman in 1809.

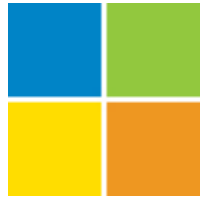
After Sweden, ombudsmen were established in Finland (1919), Denmark (1954), Norway (1961) and New Zealand (1962).

In 1970, Manitoba became the fourth province (after Alberta, New Brunswick and Quebec) to establish an ombudsman.



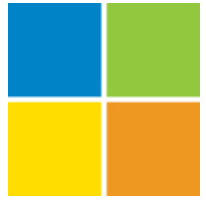
Ombudsman Role

- The office's mission is to promote and foster **openness, transparency, fairness, accountability, and respect for privacy** in the design and delivery of public services.
- The ombudsman has a broad mandate established under:
 - The Ombudsman Act (1970)
 - The Personal Health Information Act (1997) (PHIA)
 - The Freedom of Information and Protection of Privacy Act (1998) (FIPPA)
(Replaced the Freedom of Information Act, 1988)
 - The Public Interest Disclosure (Whistleblower Protection) Act (2007) (PIDA)



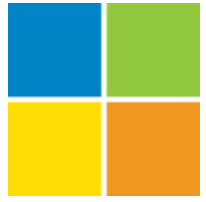
About the Office

- The office employs approximately 35 staff
- Locations in Winnipeg and Brandon
 - Shared office in Thompson (with the Manitoba Advocate for Children and Youth) as part of a two-year pilot project
- In 2017:
 - 4270 inquiries and complaints
 - 380 investigations opened under FIPPA and PHIA
 - 49 investigations opened under the Ombudsman Act
 - 3 investigations opened under PIDA



About the Office: Ombudsman Division

- The Ombudsman Division investigates complaints under:
 - [The Ombudsman Act](#), about administrative actions, decisions or omissions made by government departments and agencies, and municipalities, and their officers and employees.
 - [The Public Interest Disclosure \(Whistleblower Protection\) Act \(PIDA\)](#), about the disclosure of significant and serious matters in or relating to the public service that are potentially unlawful or dangerous to the public interest, or about reprisal action that has been taken against an employee for making a disclosure, seeking advice about making a disclosure or cooperating in an investigation.



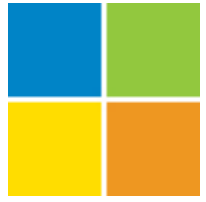
About the Office: Access and Privacy Division

- [The Freedom of Information and Protection of Privacy Act \(FIPPA\)](#) governs access to general information and personal information held by public bodies and sets out requirements to protect the privacy of personal information contained in their records.
- [The Personal Health Information Act \(PHIA\)](#) provides people with a right of access to their personal health information held by trustees and requires trustees to protect the privacy of personal health information contained in their records.
- The Access and Privacy Division investigates complaints under FIPPA and PHIA, including:
 - Failure to respond to access to information requests within the time limits
 - Refusal of access to all or part of the requested information
 - Concern that the fee for access is too high
 - Refusal to correct personal information (FIPPA) or personal health information (PHIA)
 - Alleged inappropriate collection, use or disclosure of personal information (FIPPA) or personal health information (PHIA)



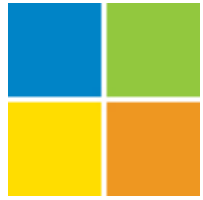
Ombudsman Jurisdiction

- Jurisdiction under all acts (Ombudsman Act, FIPPA, PHIA, PIDA):
 - Provincial government departments
 - Crown corporations
 - Regional health authorities
 - Child and Family Services
- Each act has some differences:
 - Municipalities – Ombudsman Act, FIPPA, PHIA and PIDA (by regulation)
 - School divisions/boards (FIPPA, PHIA and PIDA)
 - Universities (PIDA)
 - Funded third parties (PIDA)
 - Private health-care trustees, such as physicians, dentists, etc. (PHIA)



Ombudsman Act: More Detail

- Under the Ombudsman Act, the ombudsman investigates administrative actions, decisions or omissions, i.e. any practice, procedure, action or decision that government makes as it implements or administers its laws and policies. Much of what public bodies do, including the day-to-day work in correctional facilities, are matters of administration.
- When actions or decisions affect individual rights and benefits, the ombudsman may also look at the fairness of those actions and decisions. What is fairness?
 - Procedural fairness – the steps taken when a decision is made
 - Substantive fairness – the decision itself (for example, is it reasonable?)
 - Relational fairness – how people are treated during the decision-making process
 - See *Achieving Fairness: Your Guide to Dealing with Government* for more information on fairness.



Ombudsman Posters

Ombudsman posters are displayed in all provincial correctional facilities in Manitoba. They provide information about how to solve problems and information about contacting the ombudsman. In most cases, individuals are expected to follow the problem solving process outlined on the posters, before contacting the ombudsman (unless a matter is urgent).

Having Problems?

Ask to see a staff person
Not satisfied?

Ask to see the supervisor
Not satisfied?

Write to the superintendent
Not satisfied?

Write to the ombudsman
If your problem is urgent, call and ask to speak to our Intake services unit

Winnipeg office
750-500 Portage Avenue
Winnipeg, Manitoba R3C 3X1
Phone: 204-982-9130
Fax: 204-942-7803
Toll-free: 1-800-665-0531

Brandon office
202-1011 Rosser Avenue
Brandon, Manitoba R7A 0L5
Phone: 204-571-5151
Fax: 204-571-5157
Toll-free: 1-888-543-8230

The ombudsman's telephone number is automatically added to your telephone PIN

Manitoba Ombudsman

Independent Impartial Investigation
Les services du bureau sont disponibles en français

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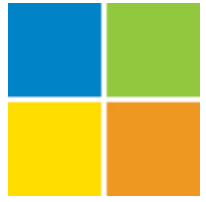
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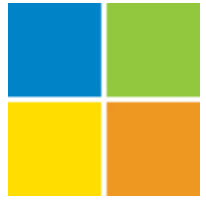
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Ombudsman Brochures

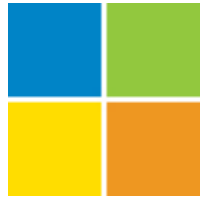
- Ombudsman brochures also set out the problem solving process and contain some additional information about what the ombudsman can and cannot look at. The brochures contain a complaint form that can be filled out and mailed to the ombudsman. Individuals may also write a letter of complaint, if they prefer.





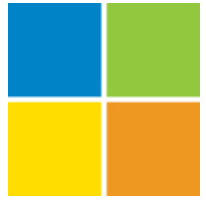
Common Complaints

- The ombudsman's Intake Services team receives hundreds of calls every year from individuals held in correctional facilities. The ombudsman's phone number is automatically added to telephone PINs.
- Complaints from individuals are commonly about unfair treatment. For example:
 - They can't see a doctor, nurse or dentist.
 - Their living area is not clean.
 - They do not feel safe in their living unit.
 - They've been denied visits or phone calls and don't understand why.
 - They do not get enough fresh air and exercise.
- Urgent matters might include:
 - Prescription drugs haven't been given.
 - There is no access to a doctor, dentist or nurse regarding pain.
 - A living unit is unsafe.
 - Food allergies haven't been addressed.



Non-Jurisdictional Matters

- Some of the types of complaints not within the ombudsman's jurisdiction include:
 - Court decisions (e.g. length of sentence)
 - Decisions of judges, magistrates, justices of the peace
 - Professional medical decisions of psychiatrists, doctors, dentists (e.g. prescriptions)
 - Anything related to private businesses, private lawyers, or private disputes between individuals
 - Federal government matters (e.g. RCMP)



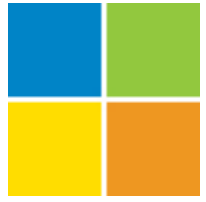
Ombudsman Intake Process

- When a complaint is received, intake staff will:
 - Clarify the issue and determine if the complaint is within the ombudsman's jurisdiction
- Intake staff may provide information to complainants about:
 - Other possible resources, problem solving steps, the role and function of the ombudsman
 - Appeal options (e.g. D-Board)
 - The formal ombudsman complaint process (while complaints must be submitted in writing, individuals have the right to contact the ombudsman by phone if they have questions)
- If a matter is non-jurisdictional, intake staff will refer the person to the appropriate agency (e.g. College of Physicians and Surgeons, Law Society, etc.)
- Intake staff can sometimes achieve early resolution of concerns. The early resolution process sometimes involves facilitating communication between an individual and the right person at the facility.
- Complaints about staff conduct are dealt with by bringing the matter to the attention of the superintendent and/or division.



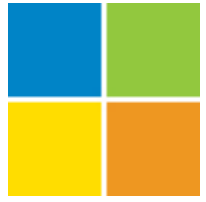
Mail

- No stamp is necessary when mail is sent via interdepartmental mail to the ombudsman from within a correctional facility.
- Mail addressed to the ombudsman must be forwarded immediately and not be opened (section 22 of the Ombudsman Act).
- Mail from the ombudsman to a complainant is considered privileged mail and should not be opened, inspected or read by a correctional officer (section 70(4)(e) Correctional Services Regulation).
 - In exceptional cases, mail can be opened in the inmate's presence.



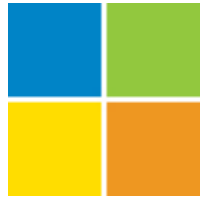
Ombudsman Investigation Process

- **Principles of fairness and natural justice apply.** The ombudsman looks at decisions and actions by public bodies to see if they are fair and just. The ombudsman's work also follows those principles. For example, giving notice to a public body about an investigation, sharing information about the matter under investigation, allowing both (or more) parties to participate, giving public bodies the opportunity to respond, etc.
- **Thorough investigation** – impartial and courteous
 - Evidence – ‘any information’ from ‘any person’
 - May summon any person; examine on oath
 - Right of entry to any government building
- **Evidence is confidential** and cannot be used in court; the ombudsman cannot be called as a witness
- It is an offence to obstruct, hinder, or resist an ombudsman investigation



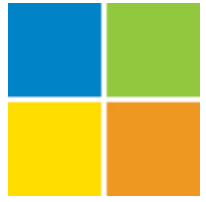
More About Confidentiality

- Confidentiality is maintained throughout the investigation process:
 - Every ombudsman staff member takes an oath of secrecy (section 12(2) of the Ombudsman Act)
 - Ombudsman files are not available to any person from government or the public (sections 13 and 26 of the Ombudsman Act, section 4(e) of FIPPA)
 - No one can review or audit the content of ombudsman files (section 39 of the Ombudsman Act)
 - Ombudsman staff only share information that is needed to explain a decision and do not share departmental information that could be considered classified or confidential (section 12(2) of the Ombudsman Act)
 - Ombudsman investigative findings/files cannot be used in a court proceeding (sections 33 and 41 of the Ombudsman Act).



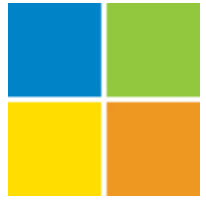
Investigations

- When a complaint is about an administrative matter, within the ombudsman's jurisdiction, and cannot be resolved by intake staff, a formal investigation is opened:
 - The complaint will be assigned to an ombudsman investigator
 - The investigator may request and review the following information:
 - Policy/standing orders and applicable legislation
 - File documentation – COMS entries, incident reports, running records, request forms, medical records, video evidence, etc.



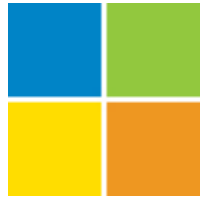
Investigations, continued

- The investigator may visit any government building (including any correctional facility) and speak with any person, including any staff member, to obtain information.
- The investigator and complainant may communicate throughout the investigation, often by phone.
- Once the information has been gathered, reviewed and analyzed, the investigator will reach a conclusion.
- If an action, decision or omission is found to be unfair or unreasonable, ombudsman staff will attempt to resolve the matter informally by sharing their findings with the government body.



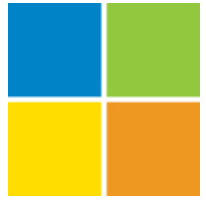
Investigations, continued

- If the situation cannot be resolved informally, the ombudsman will make a recommendation that:
 - a matter should be referred to the appropriate authority for further consideration
 - an omission should be rectified
 - a decision should be cancelled or varied
 - any practice on which a decision, recommendation, act or omission was based should be altered or reviewed
 - any law on which a decision, recommendation, act or omission was based should be reconsidered
 - reasons should be given for any decision, recommendation, act or omission, or
 - any other steps should be taken
- Both the complainant and government body will be notified of the outcome of the investigation.
- In some cases, the ombudsman may report publicly on a matter.



For More Information

- Useful resources:
 - Achieving Fairness: Your Guide to Dealing with Government
<https://www.ombudsman.mb.ca/uploads/document/files/achieving-fairness-web-en.pdf>
 - Your Information Rights Under FIPPA
<https://www.ombudsman.mb.ca/uploads/document/files/fippa-guide-2018-web-en.pdf>
 - Health Information Access and Privacy: A Guide to the Personal Health Information Act
<https://www.ombudsman.mb.ca/uploads/document/files/phia-guide-en.pdf>



Contact Us

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