

MANITOBA OMBUDSMAN PRACTICE NOTE

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RESPONDING TO A COMPLAINT ABOUT COLLECTION OF PERSONAL INFORMATION UNDER *THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)*

Under FIPPA (subsection 59(3)), an individual has a right to make a privacy complaint to the Ombudsman alleging that a public body has collected his or her personal information contrary to FIPPA. This Practice Note has been prepared to assist public bodies in responding to this type of complaint.

When Manitoba Ombudsman investigates a complaint concerning collection, information would be requested from the public body about the individual's allegation. There is certain information that would be relevant to any complaint about a collection, which is outlined below. There could be other information relevant to a particular complaint that may also be requested from a public body.

Each provision that authorizes the collection of personal information has certain requirements that must be met. It is important that a public body addresses each component of these requirements.

If representations are too general or if the necessary connections between the collection, the authorizing provision and the personal information are not clearly made, the representations will not establish that the provision applies.

For a complaint about collection, a public body would be asked by our office to:

1. confirm whether personal information was collected
2. provide a copy of the personal information that was collected
3. explain how the information was collected (the means or method, such as by the public body documenting the personal information received by telephone or receiving it in a letter)
4. indicate from whom the information was collected
5. indicate when the information was collected (the date or time frame)
6. indicate the clause under subsection 36(1) which authorizes the collection

7. explain the purpose for which the information was collected and describe how this relates to the authorizing provision
8. explain how the amount of information was limited to what was necessary to accomplish that purpose (subsection 36(2))
9. explain what information was provided to the individual to notify of the purpose for which the information was collected (section 37)

If the collection was from a source other than the individual (indirect collection), a public body would provide additional information to:

10. explain why the information was collected from a source other than the individual
11. indicate the provision under subsection 37(1) which authorizes the collection from a source other than the individual