

MANITOBA OMBUDSMAN PRACTICE NOTE

Practice Notes are prepared by Manitoba Ombudsman to assist persons using the legislation. They are intended as advice only and are not a substitute for the legislation.

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RESPONDING TO A COMPLAINT ABOUT SECURITY OF PERSONAL HEALTH INFORMATION UNDER *THE PERSONAL HEALTH INFORMATION ACT (PHIA)*

Under PHIA (subsection 39(2)), an individual has a right to make a privacy complaint to the Ombudsman alleging that a trustee has failed to protect his or her personal health information in a secure manner as required by PHIA. This Practice Note has been prepared to assist trustees in responding to this type of complaint.

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

For a complaint about security, a trustee would be asked by our office to:

1. describe what happened to the information, who was involved and indicate the date or time frame of the alleged incident
2. provide a copy of the personal health information, if possible
3. describe the security safeguards used to ensure security of the personal health information in question (sections 18 and 19)
4. provide a copy of the written security policy and procedures with the sections relevant to the complaint identified (section 2 of the Personal Health Information Regulation 245/97)
5. explain how the adopted safeguards were followed (or not followed) in this instance
6. confirm whether the trustee's employees and agents were provided with an orientation about the policy and procedures (section 6 of the Regulation)
7. confirm whether the trustee's employees and agents signed a pledge of confidentiality acknowledging they are bound by the policy and procedures (section 7 of the Regulation)
8. explain whether the personal health information was protected in a secure manner and, if not, describe the actions taken to address the security of the information and to prevent a recurrence of a security incident