

MANITOBA OMBUDSMAN PRACTICE NOTE

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HANDLING REQUESTS FOR CORRECTIONS UNDER FIPPA

The purpose of this practice note is to assist public sector bodies in responding to and handling requests for corrections to personal information under FIPPA.

OVERVIEW

One of the purposes of FIPPA is to provide individuals with a right of access to records that contain personal information about themselves that are in the custody and control of public sector bodies. Individuals also have the right to request corrections to records containing personal information they believe is inaccurate. Public sector bodies must take reasonable steps to ensure the accuracy of personal information. This is particularly important if the personal information is used to make decisions that affect individuals.

Using FIPPA should not always be required to request a correction of inaccurate or out-of-date personal information. Changing an address or phone number is considered to be a routine correction and a public sector body should not require a formal request under FIPPA to do so.

CORRECTION REQUESTS UNDER FIPPA

Section 39 of FIPPA provides a right to request a correction of personal information in records where the applicant believes there is an error or omission in that information.

Formal requests to correct personal information may be required when the applicant and the public sector body disagree about the accuracy of personal information in the record.

Requests for correction must be made in writing.

If the information is *personal health information*, then the request for correction must be dealt with under *The Personal Health Information Act* (PHIA).

RESPONDING TO REQUESTS FOR CORRECTION

Once the request for correction to personal information has been received, the public sector body has 30 calendar days to:

- Make the correction and advise the applicant of the correction (clause 39(3)(a)), or

- Notify the applicant that the correction will not be made, provide the reason for the refusal to make the correction, and advise of the right to make a complaint to the Ombudsman (clause 39(3)(b)).
- When the public sector body refuses to make the correction, it must add the applicant's request for correction to the record (clause 39(3)(b)).

A public sector body can extend the 30 day time limit under subsection 15(1) to respond to a request for correction (subsection 39(4)). For example, extensions may be taken if there is insufficient detail provided by the applicant for the public sector body to identify the records that require correction, or if there are large numbers of records to be searched and corrected which may unreasonably interfere with the operations of the public sector body.

CORRECTING THE RECORD

In determining whether to make the requested correction, the public sector body should:

- Verify that there is an error;
- Request that the applicant provide proof of the error or omission;
- Make the correction if the error exists, by marking the original record as incorrect and attaching the correct information to the record;
- Make the correction to both hard copy and electronic copy formats.

Note:

- If the inaccuracy of the information is not supported by proof, or the information is not fact based (such as a difference in opinion) the public sector body is not required to correct the information, but the request for correction must be added to the record.

NOTIFYING OTHERS OF THE CORRECTION/REQUEST FOR CORRECTION

When a correction has been made to personal information in a record, the public sector body with custody or control of it must, where practical, notify any other public sector body or third party to whom the information has been disclosed, of the correction, or that a request for correction has been added to the record (subsection 39(5)).

In determining whether notification is practical, the public sector body should consider all relevant factors, including the potential effect on the individual if the notification is not provided to other parties.

Notification to others should occur when:

- The public sector body has disclosed the incorrect information to other public sector bodies or third parties;
- The disclosure has occurred **within the year** before the request was made;
- The public sector body determines that notification should be made despite the disclosure occurring more than one year ago.

Public sector bodies should keep a record of all disclosures of personal information to other parties as this will simplify notification of other parties when a correction has been requested and made, or a request for correction has been added.

When notified that a record has been corrected, or that a request for a correction has been added, the public sector body that has received the notification must make the changes to the personal information in its own records or add the request for correction to the record (subsection 39(6)).