

MANITOBA OMBUDSMAN PRACTICE NOTE

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EXTENDING THE TIME LIMIT FOR RESPONDING UNDER *THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)*

A public sector body must make every reasonable effort to respond in writing to an access application within 30 days of receiving it (subsection 11(1)). Under FIPPA (subsection 15(1)), a public sector body may extend the time for responding to an access application for up to an additional 30 days, or for a longer period if the Ombudsman agrees. This Practice Note has been prepared to assist public sector bodies in extending the time limit to respond for up to 30 additional days.

If a public sector body requires an extension longer than 30 days, it should review our Practice Note: *Making a Submission to the Ombudsman for an Extension Longer than 30 Days*.

The 30-day time limit for responding to an access application is based on calendar days. If the last day for responding falls on either a statutory holiday or a Sunday, then the due date is automatically extended to the next day.

A public sector body should begin processing access applications as soon as possible. This will assist the public sector body in determining whether clarification is required by the applicant or if an extension for responding is needed. The extension must be taken within 30 days of receiving the application.

It should be noted that the 30-day time limit for responding to a request made by an individual for his or her personal health information cannot be extended under *The Personal Health Information Act (PHIA)*.

EXTENDING THE TIME LIMIT FOR UP TO AN ADDITIONAL 30 DAYS

A public sector body may extend the time limit to respond to an application for up to an additional 30 days in one of the following circumstances if:

- the application does not contain enough detail to allow the public sector body to identify a requested record (clause 15(1)(a))
- a large volume of records is requested or must be searched and responding within 30 days would interfere unreasonably with the operations of the public sector body (clause 15(1)(b))

- time is needed to consult with a third party or another public sector body before deciding whether or not to grant access to a record (clause 15(1)(c))
- a third party makes a complaint under subsection 59(2) (clause 15(1)(d)).

Each clause under subsection 15(1) contains specific elements that must apply to a situation in order to rely on the clause. A public sector body should document the reasons that support its basis for an extension. For an outline of the clause-specific information that would be requested from a public sector body by the Ombudsman if a complaint is made, please see our Practice Note *Responding to a Complaint about the Extension of the Time Limit for Responding under FIPPA*.

FACTORS THAT DO NOT SUPPORT AN EXTENSION

When considering an extension of the time limit to respond to an application, a public sector body cannot claim an extension for:

- the time it spends reviewing records (for example: access and privacy personnel reviewing responsive records to determine if an exception applies)
- consulting employees *within* the public sector body that received the application (for example: access and privacy personnel obtaining internal advice about the release of records)
- insufficient staff resources to respond to an application (for example: access and privacy personnel away on vacation)

NOTIFYING THE APPLICANT OF AN EXTENSION

When extending the time limit to respond to an application a public sector body is required to notify the applicant in writing (subsection 15(2)). The notification must inform the applicant of:

1. the reason for the extension (indicate the clause under subsection 15(1) that permits the extension and explain how the clause applies to the situation)
2. when the response can be expected (specify the number of days of the extended time period and indicate the extended due date)
3. the right to make a complaint to the Ombudsman about the extension (provide contact information for Manitoba Ombudsman and advise of the 60-day time limit to complain)